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12/02/2019

Permit Application Number SAJ-2011-00551 (SP-TSH)

Formerly: SAJ-2011-00551 (IP-TEH)

Formerly: SAJ-1998-2682 (IP-MN); Ridge Road Extension (RRE)

Colonel Andrew D. Kelly
Commander, Jacksonville District
U.S. Army Corps of Engineers
701 San Marco Blvd.
Jacksonville, FL 32207-8175

Shawn Zinszer,
Chief, Regulatory Division
Jacksonville District
U.S. Army Corps of Engineers
701 San Marco Blvd.
Jacksonville, FL 32207-8175

Dear Colonel Kelly, Regulatory Chief Zinszer,

Please put this Comment # 34 into the Administrative Record.

INTRODUCTION

THERE ARE THREE SECTIONS TO THIS 11/2019 COMMENT THAT CONTAIN NEW INFORMATION REGARDING A NEW FULL INTERCHANGE AT TOWER ROAD AND THE PARKWAY, AND EVIDENCE THAT PASCO COUNTY PROVIDED FALSE INFORMATION TO THE ACOE IN THEIR RECENT 09/2019 AA WITH REFERENCE TO TOWER ROAD NEVER BEING BUILT “AT ANY PRICE.” THEY WILL SUBMIT TO THE FEDERAL HIGHWAY ADMINISTRATION DATA STATING THE EXACT OPPOSITE. ONE OF THOSE FEDERAL AGENCIES IS BEING PROVIDED FALSE INFORMATION.

SECTION 1A—WHY NO 404 PERMIT CAN BE GRANTED NOW IN 2019 WITHOUT REQUIRING AN FULL ENVIRONMENTAL IMPACT STATEMENT (EIS) BECAUSE PASCO’S LATEST 09/2019 UPDATE OF THEIR ALTERNATIVES ANALYSIS HAS NOT BEEN UPDATED AS REQUIRED, AND IS SO FULL OF ERRORS AND OMISSIONS THAT NO DETERMINATION OF A TRUE LEDPA CAN BE MADE BY THE FEDERAL AGENCIES BASED ON SUCH INCORRECT AND INCOMPLETE INFORMATION. ALL 10 “PRACTICABLE” ALTERNATIVES, IDENTIFIED BY THE ACOE IN 2013, MUST BE FULLY EVALUATED OR THE TRUE LEDPA, REFLECTING CURRENT CONDITIONS AS OF 2019 (AND NOT FROM 10/2015), CANNOT BE KNOWN.

SECTION 1B—NEW INFORMATION THAT THE TOWER ROAD ALTERNATIVE # 10 IS PROPOSEED BY THE FLORIDA TURNPIKE ENTERPRISE AND THE PASCO MPO TO HAVE A FULL ON/OFF INTERCHANGE TO PROVIDE UP TO A 32 % TRAFFIC CONGESTION RELIEF FROM THE SR 54 INTERCHANGE ONE MILE TO THE SOUTH. WE WILL ALSO PROVIDE EVIDENCE OF OTHER ALTERNATIVES ALREADY DETERMINED TO BE “PRACTICABLE” BY THE ACOE THAT ARE NOW IN 2019 MORE OF A LEDPA THAN THE MOD 7A-ARTERIAL.

SECTION 1C—THIS SEGMENT CALLS ATTENTION TO THE FEDERAL JUDICIARY AND THE ACOE OFFICE OF COUNSEL THAT, ACCORDING TO THE CODE OF FEDERAL REGULATIONS AND THE ACOE’S OWN GUIDELINES, A CWA 404 PERMIT CAN ONLY BE GRANTED FOR THE LEDPA. IT IS NOT PERMISSABLE TO OVERLOOK THIS REQUIREMENT BASED ON SUBJECTIVE ELEMENTS REGARDING POSSIBLE ISSUES LIKE “BETTER TRAFFIC FLOW” AND “QUICKER HURRICANE EVACUATION,” AND “PROVIDES BETTER PUBLIC SAFETY,” ESPECIALLY WHEN OTHER

‘PRACTICABLE,’ AND ‘LESS COSTLY TO THE APPLICANT’ AND ‘LESS ENVIRONMENTALLY DAMAGING’ ALTERNATIVES EXIST. WE WILL PROVIDE EVIDENCE BELOW IN SECTION 1C, OF THOSE ALTERNATIVES USING ALTERNATIVE # 10, THE 4-LANE TOWER ROAD, AS A SPECIFIC EXAMPLE.

SECTION 1A—WHY NO 404 PERMIT CAN BE GRANTED NOW IN 2019 WITHOUT REQUIRING AN EIS BECAUSE PASCO’S LATEST 09/2019 ALTERNATIVES ANALYSIS IS SO FULL OF ERRORS AND SO OUTDATED THAT NO DETERMINATION OF A TRUE LEDPA CAN BE MADE BY THE FEDERAL AGENCIES BASED ON SUCH INCORRECT FOUR YEAR OLD INFORMATION.

PASCO COUNTY BELOW TOLD THE ACOE, ON PAGE 395 OF THEIR 2013 2737-PAGE RESPONSE, THAT “The most current data available was utilized...”

**RIDGE ROAD EXTENSION
ACOE PERMIT APPLICATION
ATTACHMENT E
REVISED ALTERNATIVE ANALYSIS
DECEMBER 18, 2013**

ATTACHMENT E - REVISED ALTERNATIVES ANALYSIS

Section 1.0 FACTORS FOR ALTERNATIVES ANALYSIS AND COMPARISON

In order to address questions and comments in the July 23, 2012 RAI, this Revised Alternatives Analysis has been prepared.

The factors to be utilized in analysis of the alternatives are described in Section 4.1 below. The factors for analysis are essentially the same as those included in the 2011 Alternatives Analysis; however, the data differs significantly from the 2011 analysis for a number of reasons. **The most current data available was utilized** including 2009 Florida Land Use and Cover Classification System (FLUCCS) and the most current floodplain information.

COMMENT INSERT—THAT NOW OUTDATED 10/2015 AA IS BELOW.

**Ridge Road Extension
Responses to USACE Request for Information
as a Follow Up to September 1, 2015 Meeting**

1

← All = less wetland impacts

4 Lane Tower costs $< \$65$ mil. $\frac{1}{2}$ built
Already. 4 Lane SR54 costs \approx "0."
Lane SR52, And + 2 Lane SR54 cost
 \approx "0."

Addendum to Alternative Analysis

September 2019 Update

bioRxiv preprint doi: <https://doi.org/10.1101/2020.06.01.280000>; this version posted June 1, 2020. The copyright holder for this preprint (which was not certified by peer review) is the author/funder, who has granted bioRxiv a license to display the preprint in perpetuity. It is made available under aCC-BY-NC-ND 4.0 International license.

ED 004786 00000825-00005

ACRES OF DIRECT WETLAND IMPACTS LISTED ON THE RECENT 09/2019 AA FOR TOWER ROAD ALTERNATIVE # 10, THE FOLLOWING WETLAND IMPACTS HAVE ALREADY BEEN TAKEN AND MITIGATED FOR. THESE SEGMENTS BELOW ARE NOW IN USE:

FROM STARKEY BLVD. FOR 3.5 MILES EAST TO EASTERN END OF STARKEY RANCH MPUD = 9.41 ACRES OF IMPACT.

FROM JUST EAST OF THE PARKWAY TO JUST EAST OF BALLANTRAE BLVD. ON THE BEXLEY RANCH SOUTH MPUD FOR 1.08 MILES = 1.39 ACRES OF IMPACT.

THAT EQUALS 9.41 ACRES OF DIRECT WETLAND IMPACTS PLUS 1.08 ACRES = 10.81 ACRES TOTAL, OUT OF AN ORIGINAL 22.2 ACRES. SO, THERE ARE NOW IN 2019 11.40 ACRES REMAINING. THE RECENT 09/2019 AA STILL SHOWS 22.2 ACRES.

FOR PASCO TO SUBMIT THE SAME DIRECT WETLAND IMPACTS NUMBER (22.2 ACRES) FOR ALTERNATIVE # 10 ON THE RECENT 09/2019 AA IS DISINGENUOUS AND INCORRECT.

AND CONTINUING EAST FOR 1.2 MILES, FROM THE ABOVE COMPLETED POINT JUST EAST OF BALLANTRAE BLVD. TO THE NOW COMPLETED AND FULLY OPERATIONAL INTERSECTION OF TOWER ROAD WITH SUNLAKE BLVD., IS THE 1ST EXTENSION OF TOWER ROAD TO BE BUILT BY THE NNP BEXLEY, LLC MPUD ENTITY (SEE BELOW). IT WILL IMPACT 5.29 ACRES OF WETLANDS AND RESULT IN AN UMAM FUNCTIONAL LOSS OF 1.901 UNITS. THAT PERMIT IS GOOD UNTIL 2024. IF AND WHEN THOSE 5.20 ACRES, THAT HAVE ALREADY BEEN PERMITTED AS A CONDITION OF THAT MPUD BY THE SWFWMD AND ACOE (WE WILL PROVIDE EVIDENCE FOR THAT FACT) ARE TAKEN, THAT WILL LEAVE 11.40 ACRES MINUS 5.20 ACRES = 6.20 ACRES OF DIRECT WETLAND IMPACTS REMAINING FOR ALTERNATIVE # 10, TO GO ALL THE WAY TO U.S 41 AND ACHIEVE THE PROJECT PURPOSE.

THE FEDERAL AGENCIES, AND IF NECESSARY THE FEDERAL JUDICIARY, MUST TAKE NOTE OF THE NOW OBVIOUS FACT THAT ALTERNATIVE # 10 IS DEFINITELY THE LEDPA BY A LONG SHOT, WHEN COMPARED TO THE NEW MOD 7A-ARTERIAL WITH ITS 37.38 ACRES OF WETLAND IMPACTS AS REPORTED ON THE ACOE'S 09/2018 PUBLIC NOTICE, AND THE ADDITIONAL 3.5 ACRES JUST RECENTLY ADDED TO BE CAUSED BY WILDLIFE FENCING REQUIRED FOR THE PARKWAY INTERCHANGE. THAT BRINGS THE NEW TOTAL FOR THE MOD 7A-ARTERIAL TO OVER 40 ACRES OF DIRECT WETLAND IMPACTS VS JUST OVER 6 ACRES, OR 11.40 WHEN DISCOUNTING THE NNP BEXLEY 1ST EXTENSION, FOR ALTERNATIVE #10.

AND THAT DOES NOT CONSIDER THE 245.3 ACRES OF INDIRECT WETLAND IMPACTS FOR THE MOD 7A-ARTERIAL, NOR THE 205 ACRES OF CUMULATIVE IMPACTS, DUE TO THE RECENT ADDITION OF UP TO 7 FULL ON/OFF INTERSECTIONS ON PHASE 2.

COMMENT INSERT—SEE RED AND PURPLE HIGHLIGHTED SECTIONS OF THE BELOW 1990 MOA BETWEEN THE ACOE AND THE EPA THAT EXPLICITLY REQUIRE ONLY THE LEAST ENVIRONMENTALLY DAMAGING PRACTICABLE ALTERNATIVE CAN BE PERMITTED. THERE IS NO CHANCE ANY MEMBER OF THE FEDERAL JUDICIARY WILL NOT SEE THIS REQUIREMENT AND REMAND ANY GRANTED PERMIT FOR ANY ALTERNATIVE CONTAINING THE RRE, SINCE THOSE ALTERNATIVES NOW IN 2019 WILL BE THE MOST ENVIRONMENTALLY DAMAGING.

THE MOA CITED BELOW ALSO STATES THAT LOW QUALITY WETLANDS HAVE LESS UMAM FUNCTIONAL UNIT LOSS AND THEREFORE LESS REQUIRED MITIGATION. EXCEPT FOR THE APPLICANT’S MOD 7A-ARTERIAL PREFERRED ALTERNATIVE, THE WETLAND QUALITY ASSESSMENTS FOR THE NUMEROUS OTHER ‘PRACTICABLE’ ALTERNATIVES IDENTIFIED BY REGULATORY CHIEF KINARD AND DEPUTY CHIEF TORI WHITE HAVE NEVER BEEN DONE. THAT MUST BE DONE SO A COMPLETE COMPARISON OF THE UMAM FUNCTIONAL UNIT LOSS FOR ALL PRACTICABLE ALTERNATIVES CAN BE MADE, AND THEN A TRUE LEDPA BE DETERMINED BY THE FEDERAL AGENCIES.

<https://www.epa.gov/cwa-404/memorandum-agreement-regarding-mitigation-under-cwa-section-404b1-guidelines-text>

Section 404 of the Clean Water Act

Memorandum of Agreement regarding Mitigation under CWA Section 404(b)(1) Guidelines (Text)

Between the Department of the Army and the Environmental Protection Agency

III. OTHER PROCEDURES

A. Compliance with other statutes, requirements and reviews, such as NEPA and the Corps public interest review, may not in and of themselves satisfy the requirements prescribed in the Guidelines.

B. In achieving the goals of the CWA, the Corps will strive to avoid adverse impacts and offset unavoidable adverse impacts to existing aquatic resources. Measures which can accomplish this can be identified only through resource assessments tailored to the site **performed by qualified professionals because ecological characteristics of each aquatic site are unique. Functional values should be assessed by applying aquatic site assessment techniques generally recognized by experts in the field and/or the best professional judgment of federal and state agency representatives, provided such assessments fully consider ecological functions included in the Guidelines.** ⁷ In the absence of more definitive information on the functions and values of specific wetland sites, a minimum of 1 to 1 acreage replacement may be used as a reasonable surrogate for

no net loss of functions and values. However, this ratio may be greater where the functional values of the area being impacted are demonstrably high and the replacement wetlands are of lower functional value or the likelihood of success of the mitigation project is low. **Conversely, the ratio may be less than 1 to 1 for areas where the functional values associated with the area being impacted are demonstrably low and the likelihood of success associated with the mitigation proposal is high.**

COMMENT INSERT—THE ABOVE DESCRIPTION OF LOW QUALITY WETLANDS TO BE IMPACTED BY ONE OR MORE ALTERNATIVES IS APPLICABLE HERE SINCE ALMOST ALL ALTERNATIVES TO THE RRE MOD 7A HAVE WETLANDS THAT HAVE ALREADY BEEN IMPACTED BY PAST PROJECTS AND THEY SUFFER FROM WHAT ARE CALLED ‘EDGE EFFECTS. THAT DESCRIBES ADDING LANES TO STATE ROADS 54 AND 52 WHERE WETLAND AND LISTED SPECIES HABITAT QUALITY SUFFER FROM THE PROXIMITY TO THOSE ROADWAYS. AND FOR TOWER ROAD, THAT ENTIRE ROW FOR OVER 11 MILES WAS USED FIRST FOR THE ORANGE BELT RAILROAD OVER 100 YEARS AGO IN 1885, THEN FOR THE 84-INCH DIAMETER BURIED TAMPA BAY WATER PIPELINE, AND FOR THE PAST 50 YEARS AS A RANCH ROAD FOR LARGE TRACTORS AND LUMBER HAULING SEMIS. MOST OF THE IMPACTS TO WETLANDS AND LISTED SPECIES HABITATS OCCURRED BEFORE THE CLEAN WATER ACT IN 1972. CONVERSELY, THE WETLAND AND LISTED SPECIES HABITATS ON THE RRE MOD 7A ROW ARE MOSTLY PRISTINE, ESPECIALLY ON THE 6,500-ACRE SERENOVA PRESERVE (PHASE 1), AS WELL AS, TO A LESSER EXTENT, ON THE ALMOST 7,000-ACRE BEXLEY RANCH (PHASE 2).

COMMENT INSERT—AND WHY IS AN EIS SUCH A DESIRABLE TOOL IN CONTRIBUTING TO THE THOROUGHNESS OF THE PROCESS LEADING UP TO THE LEDPA DETERMINATION? THE BELOW WIKIPEDIA DEFINITION OF THAT EIS PROCESS STRESSES THE IMPORTANCE OF PUBLIC INVOLVEMENT, AND OF A CORRECTLY DONE AND ERROR FREE ALTERNATIVES ANALYSIS, SOMETHING THIS APPLICATION STILL, AFTER OVER 20 YEARS, LACKS.

https://en.wikipedia.org/wiki/Environmental_impact_statement

Environmental impact statement

From Wikipedia, the free encyclopedia

An EIS is a tool for decision making. It describes the positive and negative environmental effects of a proposed action, and it usually also lists one or more alternative actions that may be chosen instead of the action described in the EIS.

- An Introduction including a statement of the **Purpose and Need of the Proposed Action**.
- A description of the **Affected Environment**.

- A Range of Alternatives to the proposed action. Alternatives are considered the "heart" of the EIS.
- An analysis of the environmental impacts of each of the possible alternatives. This section covers topics such as:

COMMENT INSERT—THE ABOVE HAS ONLY BEEN DONE FOR THE PREFERRED MOD 7A ALTERNATIVE. THERE ARE NUMEROUS OTHER ALTERNATIVES THAT THE ACOE DETERMINED TO BE "PRACTICABLE" IN 2013 THAT MUST BE EVALUATED IN THE SAME MANNER, SO A TRUE AND FAIR COMPARISON OF ALL ELEMENTS ESPECIALLY ENVIRONMENTAL, OF EACH ALTERNATIVE CAN BE ACCOMPLISHED.

ABOVE STATES THAT THE "Alternatives are considered the "heart" of the EIS." THAT HIGHLIGHTS THE IMPORTANCE OF ALL ALTERNATIVES BEING FULLY VETTED IN AN EIS. SINCE THE PUBLIC IS DIRECTLY INVOLVED IN THE VARIOUS STAGES OF AN EIS, AND THIS APPLICATION HAS BEEN SO CONTROVERSIAL FOR OVER TWO DECADES, THE FOLLOWING STATEMENT IN THE ABOVE DEFINITION IS PARTICULARLY RELEVANT:

"Final EIS (FEIS) and Proposed Action: The public is not invited to comment on this, but if they are still unhappy, or feel that the agency has missed a major issue, they may protest the EIS to the Director of the agency." AND

" By requiring agencies to complete an EIS, the act encourages them to consider the environmental costs of a project and introduces new information into the decision-making process. The NEPA has increased the influence of environmental analysts and agencies in the federal government by increasing their involvement in the development process."

SECTION 1B—NEW INFORMATION (10/2019) OF A RECENT FTE PROPOSAL FOR A FULL ON/OFF INTERCHANGE AT THE SUNCOAST PARKWAY AND TOWER ROAD. THERE ARE THREE PARTS TO THIS SECTION.

PART A—THE PROPOSAL

COMMENT INSERT—THE FOLLOWING SECTION PROVIDES EVIDENCE THAT THE FLORIDA TURNPIKE ENTERPRISE'S TENTATIVE WORK PROGRAM FOR 2021 TO 2025 INCLUDES A FULL

ON/OFF INTERCHANGE AT TOWER ROAD, LESS THAN 1-MILE NORTH OF STATE ROAD 54, IN ORDER TO REDUCE TRAFFIC CONGESTION AT THE SR 54/PARKWAY INTERCHANGE BY 32%.

A VIDEO OF THAT MPO MEETING IS AT THE BELOW WEBSITE ADDRESS. FAST FORWARD TO 1:30 WHERE IT BEGINS. IT ENDS 10 MINUTES LATER AT 1:40.

<https://www.youtube.com/watch?v=y9WLoJVEoRw>

A SUMMARY OF THE INFORMATION INCLUDES THE FACT THAT THE PROPOSED INTERCHANGE WOULD OCCUR ONLY IN CONJUNCTION WITH PASCO CONSTRUCTING TOWER ROAD (ALTERNATIVE # 10) AS ANOTHER E/W ARTERIAL ROADWAY. THE POINT WAS MADE BY PROJECT MANAGER MR. HANNAH THAT WITHOUT PASCO'S CONSTRUCTING TOWER ROAD, THERE WOULD BE NO FTE FUNDED INTERCHANGE.

A SYNOPSIS OF THE JUST PUBLISHED 10/30/2019 LUTZ LAKER ARTICLE IS BELOW. IT REPORTS ON THE PRESENTATION BY MR. JUSTIN HANNAH, PROJECT MANAGER FOR AECOM, WHO WAS HIRED BY THE PASCO MPO, AND CAROL SCOTT OF THE FTE, TO THE PASCO COUNTY MPO ON 10/10/2019. THE FTE IS CONSIDERING A PARTIAL CLOVERLEAF INTERCHANGE AT THE INTERSECTION OF TOWER ROAD AND THE SUNCOAST PARKWAY. THIS WAS THE RECOMMENDATION BY AECOM, FOR THE FTE'S TENTATIVE WORK PROGRAM FOR 2021 TO 2025, AT A COST TO THE FTE OF AROUND \$55 MILLION. MR. HANNAH TOLD THE PASCO MPO THAT SUCH AN INTERCHANGE FOR TOWER ROAD WOULD "...see an estimated 32% traffic diversion from the State Road 54 interchange." IT WOULD ALLEVIATE TRAFFIC AT THAT SR 54 AND PARKWAY INTERCHANGE. IT ALSO REMOVES PASCO'S OBJECTION TO THE USE OF TOWER ROAD ALTERNATIVE # 10 BECAUSE IT HAD NO INTERCHANGE WITH THE PARKWAY, AS THE RRE WOULD HAVE.

<http://lakerlutznews.com/lln/>

New Suncoast Parkway projects are being planned

October 30, 2019 By [Brian Fernandes](#)

Projects aimed at improving traffic flow on the Suncoast Parkway are included in the Florida Turnpike Enterprise's tentative work program.

Those projects call for adding lanes at the parkway's intersection with State Road 54, and for connecting the parkway with Ridge Road and with Tower Road.

Carol Scott, of the Florida Turnpike Enterprise, highlighted those proposed projects at the Pasco County Metropolitan Planning Organization (MPO) board meeting on Oct. 10, at the Historic Pasco County Courthouse in Dade City.



The Suncoast Parkway intersecting with State Road 54, as seen here, may see additional lanes to help ease traffic flow. There also are plans to intersect Ridge Road and Tower Road with the Suncoast Parkway. (Brian Fernandes)

She talked about the tentative work program for fiscal years 2021 to 2025.

The second project addresses Ridge Road intersecting with the Suncoast Parkway.

The Florida Turnpike Enterprise is working in conjunction with Pasco County on this initiative.

"We're funding the interchange and we're providing some technical assistance to the county," Scott said.

That project is in the design phase and construction may begin in early 2020.

As of Oct. 25, a permit from the U.S. Army Corps of Engineers has not been granted. This would allow the extension of Ridge Road from Moon Lake Road to the Suncoast Parkway.

Justin Hannah is a project manager for AECOM, which works with the county's MPO.

The consulting firm had done a study to look at the Suncoast Parkway interchange projects, forecasting their impacts up to 2045.

"As a part of the study, we ended up analyzing potential interchanges," the project manager told the board.

One of those is the connection of Tower Road, heading west to cross the Suncoast Parkway.

A Tower Road interchange would see an estimated 32% traffic diversion from the State Road 54 interchange, Hannah said.

Three alternatives are being considered for the Tower Road interchange. They are:

A tight diamond interchange: This would have closely-spaced and signalized intersections where the ramps would meet with the crossing road. The estimated cost would be \$108.5 million.

A single point urban interchange: A signalized light would be placed at the center of the intersection of Suncoast Parkway and Tower Road, guiding traffic on and off ramps. The estimated cost would be \$27.5 million. It also would have an approximately 3,700-foot space from the State Road 54 ramps to the south.

A partial clover leaf interchange: The Suncoast Parkway's left-turn and right-turn ramps would merge with Tower Road heading upward in opposite directions, respectively. The ramps on either side, would form a loop on the north end of Tower Road before connecting again with the road. This would resemble an "M" shape. The estimated cost would be over \$59 million. However, it would have a longer distance from the State Road 54 ramps.

Hannah said the great distance would be beneficial.

"The more distance and the more space we can get between the interchanges, the better the operations are, and the safer it is," he pointed out.

Currently, the most preferred alternative is the partial clover leaf interchange, Hannah said.
Published October 30, 2019

COMMENT INSERT-- THE BELOW RECENT 09/2019 SUBMITTAL BY PASCO COUNTY TO THE ACOE ADMITS THAT THE TOWER ROAD ALTERNATIVE # 10 IS INDEED AFFORDABLE AND DOES PROVIDE IMPROVEMENT IN MOBILITY AND EVACUATION TIMES:

“...within the County’s ability to fund; however, this Alternative still provides minimal improvement to mobility and/or evacuation times...”

BUT BELOW PASCO IS ADAMANT THAT THEY DO NOT WANT THIS (OR ANY OTHER ALTERNATIVE) AT ANY “PRICE.” FOR THEM, IT IS THE RRE MOD 7A OR NOTHING, OR SO IT SEEMS. BUT NOW, IN 2019, IF PASCO DOES NOT AGREE TO CONSTRUCT THE TOWER ROAD ALTERNATIVE # 10, THEY WILL LOSE OVER \$50 MILLION IN FTE FUNDING FOR THAT INTERCHANGE AT TOWER ROAD AND THE PARKWAY.

Addendum to Alternative Analysis for Ridge Road Extension

**PREPARED FOR:
Pasco County Engineering Services Department
PREPARED BY:
NV5, INC.
1713 South Kings Avenue
BRANDON, FLORIDA 33511
July 2019
September 2019 Update**

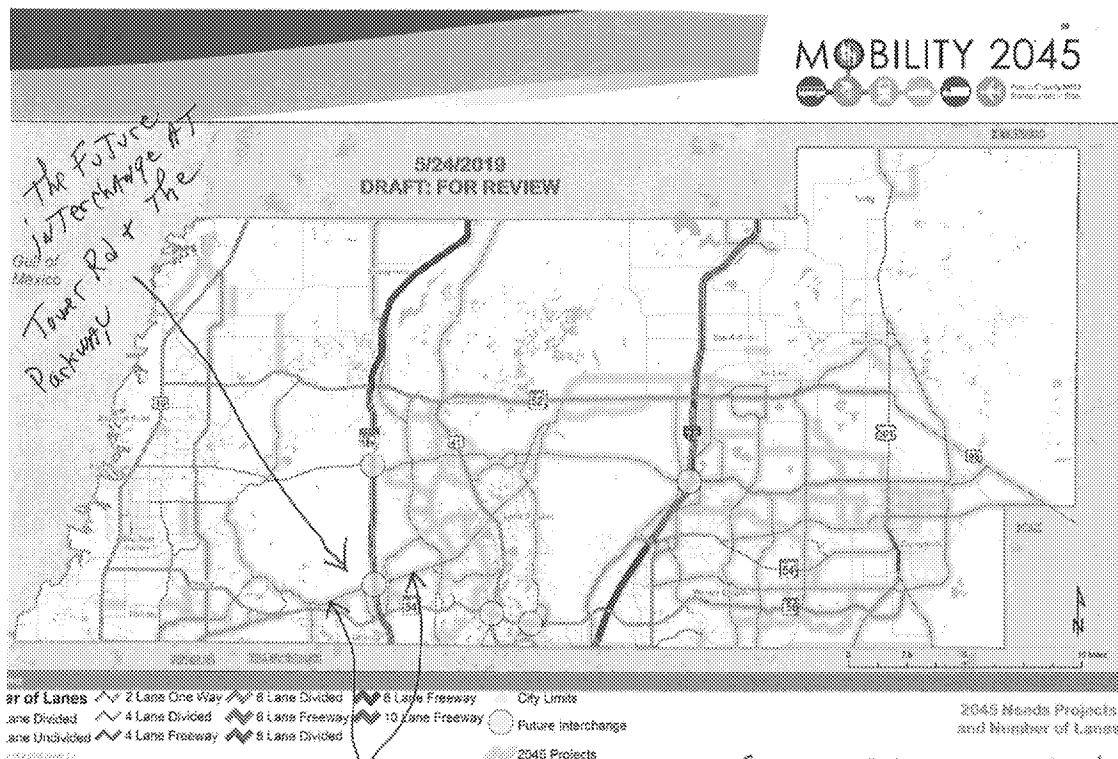
PAGE 44

Section 4.0 COMPARATIVE EVALUATIONS OF ALTERNATIVES/APPARENT LEAST ENVIRONMENTALLY DAMAGING PRACTICABLE ALTERNATIVE (LEDPA) Cost

The three Practicability factors used to evaluate cost for each alternative, Total Costs Reasonable, Costs Reasonable for Improvement in Mobility, and Costs Reasonable for Improvement in Evacuation were not changed.

Alternative 10 remained within the County’s ability to fund; however, this Alternative still provides minimal improvement to mobility and/or evacuation times such that the outcome is not worth the cost of the Alternative to the applicant at any price.

COMMENT INSERT—THAT WAS WRITTEN IN 09/2019, ONE MONTH BEFORE BEING TOLD AT THAT 10/10/2019 MPO MEETING THAT THEY WOULD LOSE AN FTE-FUNDED TOWER ROAD AND PARKWAY INTERCHANGE IF THEY DID NOT AGREE TO CONSTRUCT THEIR LIMITED PORTION OF TOWER ROAD, AFTER DEVELOPERS MUST CONSTRUCT THEIR PARTS AND DONATE ROW FOR 4-LANES AND ALL LAND NEEDED FOR FLOODPLAIN AND STORMWATER PONDS AS CONDITIONS OF THEIR RESPECTIVE MPUD'S. IT IS LIKELY THAT PASCO WILL SOON BE RECONSIDERING THE ABOVE STATEMENT THAT TOWER ROAD WOULD NOT BE WORTH IT FOR THEM TO CONSTRUCT THEIR PORTION "...AT ANY PRICE."



PART B—THE NEW TOWER ROAD/PARKWAY INTERCHANGE REMOVES ALL OF THE PAST RESERVATIONS BY SEVERAL ACOE SECTION CHIEFS AND A REGULATORY CHIEF REGARDING THE TOWER ROAD ALTERNATIVE HAVING NO INTERCHANGE AND JUST AN OVERPASS.

COMMENT INSERT—TAMPA SECTION CHIEF CHUCK SCHNEPEL, IN A LETTER TO PASCO IN 2008 (SEE ATTACHED BELOW), REFERRED TO THE FACT THAT THE 4-LANE TOWER ROAD ALTERNATIVE # 10 COULD SERVE AS AN ALTERNATIVE TO THE PROPOSED RRE, BUT THAT IT DID NOT HAVE, AT THAT TIME, AN INTERCHANGE WITH THE SUNCOAST PARKWAY: “...Tower Road does lack an interchange with the Suncoast Parkway.” NOW, IN 11/2019 THAT IS NO LONGER TRUE.

AS WILL BE EVIDENCED LATER, THE CURRENT (FROM THEIR 09/2019 AA) ESTIMATED COST TO PASCO COUNTY OF THE MOD 7A-ARTERIAL RRE IS \$88 MILLION FOR PHASE 1, AND \$42 MILLION FOR PHASE 2, FOR A TOTAL COST TO PASCO OF \$130 MILLION MOL. THE ESTIMATED COST OF THE TOWER ROAD ALTERNATIVE # 10 IN THAT SAME AA WAS \$65 MILLION (MOL), ONE HALF OF THE COST OF THE RRE MOD 7A. MORE UPDATED EVIDENCE FOR THAT FACT WILL BE PRESENTED LATER IN THIS COMMENT.

August 14, 2008

Regulatory Division

South Permits Branch
Tampa Permits Section
SAJ-1998-2682 (IP-MN)

Michele L. Baker, Chief Assistant County Administrator
West Pasco Government Center
7530 Little Road, Suite 340
New Port Richey, Florida 34654

Dear Ms. Baker:

Reference is made to your letter of May 9, 2008, responding to my letter of February 28, 2008. Both letters concern Department of the Army (DA) permit application SAJ-1998-2682(IP-MN) submitted by the Pasco County BCC (County) to discharge fill in wetlands to construct an east-west roadway between State Roads 52 and 54 to be known as the Ridge Road Extension (RRE). Your letter specifically addressed the 10 items listed at the bottom of my February 28th letter. During our meeting on May 14, 2008, in the Jacksonville District Office, you were advised that the U.S. Army of Engineers (Corps) would provide a response to your letter.

The following are the responses by the Corps by item number in the letter. Our responses are in bold type.

- An updated alternative analysis to include updated information of SR-52, SR-54, and Tower Road. This analysis should rebut the

presumption in the Guidelines that, for non-water dependent activities, a site exists that would have less or no wetland impact. From information received from the general public, Tower Road appears to fit the definition in the Guidelines. The Corps acknowledges that the RRE is an alternative that would provide traffic movement between US-19 and US-41 that is centrally located between SR-52 and 54 and the RRE would provide an additional route for evacuation from the coastal areas. However, since the traffic studies provided were skewed to support the RRE, the presumption that other routes could provide the same service was not totally rebutted. TOWER ROAD: The Corps acknowledges that Tower Road would not provide the same type of traffic movement as the RRE but it could, in combination with SR 52 and 54, provide adequate movement of goods and services between US-19 and US-41. It appears access to evacuation shelters does not appreciably change between implementation of the RRE or Tower Road. However, Tower Road does lack an interchange with the Suncoast Parkway.

If you have any questions regarding the application, please contact Mike Nowicki at the letterhead address or by telephone number at (904) 2322171.

Sincerely,

A handwritten signature in black ink that reads "Charles A. Schnepel". The signature is written in a cursive, slightly slanted style.

Charles A. Schnepel, Chief
Tampa Section

COMMENT INSERT—FIVE YEARS LATER IN 08/08/2013, THE JACKSONVILLE CHIEF OF REGULATORY DONALD KINARD, AND DEPUTY CHIEF TORI WHITE, BOTH TOLD PASCO IN THE LETTER BELOW THAT:

“The Corps has determined that this demonstrates the practicability of constructing a bridge over the Suncoast Parkway for Tower Road...”

THE FLORIDA TURNPIKE ENTERPRISE AND THE PASCO MPO HAVE EXCEEDED THAT APPROVAL OF A "BRIDGE" WITH THEIR RECENT PROPOSAL FOR A FULL ON/OFF INTERCHANGE TO REPLACE THAT FORMER OVERPASS/BRIDGE.

DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
10117 PRINCESS PALM AVENUE, SUITE 120
TAMPA, FLORIDA 33610
REPLY TO
ATTENTION OF

Tampa Permits Section
SAJ-2011 -00551 (IP-TEH)
Ms. Georgianne Ratliff
Ratliff Consulting Group, LLC
11300 Suncrest Place
Tampa, Florida 33617
Mr. John Post, Jr.
Florida Department of Transportation
Florida's Turnpike Enterprise
Post Office Box 613069
Orlando, Florida 32816
Dear Ms. Ratliff and Mr. Post:

August 8, 2013

PAGE 4

You proposed the elimination of alternatives from further analysis that involve the construction of Tower Road based on easement issues associated with a Tampa Bay Water (TBW) utility line. You based this in part on TBW's guidance that its utility line cannot extend more than 500 feet under or run parallel to pavement or concrete. Per Pasco County's provided cross-sections, the right-of-way for a 4-lane Tower Road is 136.5 feet; therefore, perpendicular


⁴ For the same reason, the Corps does not consider construction of a 4-lane Tower Road east of the CSX rail line, which will impact 20 residential properties, to be impracticable.

⁵ This information may be used to compare alternatives in the full alternatives analysis.

⁶ The Pasco County Metropolitan Planning Organization 2035 Long Range Transportation Plan anticipates including a new bridge over the Suncoast Parkway in the development of Tower Road. The Corps has determined that this demonstrates the practicability of constructing a bridge over the Suncoast Parkway for Tower Road and especially for other alternatives.

BUT now in 2019 we show Pasco requiring The
Bexley South MPUD To set aside lands east of
The Parkway For A "FUTURE INTERCHANGE."

Sincerely,



Donald W. Kinard
Chief, Regulatory Division

PART C—EVIDENCE THAT PASCO COUNTY HAS INTENTIONALLY MISLED THE ACOE AND OTHER FEDERAL REVIEWING AGENCIES WITH REGARD TO THE TOWER ROAD ALTERNATIVE.

EVIDENCE BELOW SHOWS THAT PASCO COUNTY TOLD THE ACOE, IN THEIR 09/2019 REVISED AA, THAT THEY WOULD NOT CONSIDER CONSTRUCTING THE ALTERNATIVE # 10 TOWER ROAD “AT ANY PRICE.”

BUT 3 MONTHS BEFORE, ON 06/11/2019, THE PASCO COUNTY MPO, COMPRISED OF THE 5 COUNTY COMMISSIONERS AS A VOTING MAJORITY, HAD INCLUDED A MAP IN THEIR PROPOSED 2045 LRTP SHOWING AN INTERCHANGE AT TOWER ROAD AND THE PARKWAY.

SO, IN EFFECT, IN JUNE OF 2019 THE PASCO COUNTY COMMISSIONERS APPROVED A FEDERALLY MANDATED 2045 LRTP PROPOSAL TO CONSTRUCT A FUTURE INTERCHANGE AT THE PARKWAY FOR A ROADWAY (TOWER ROAD) THEY TOLD THE ACOE AND OTHER FEDERAL REVIEWING AGENCIES 3 MONTHS LATER, IN THEIR SEPTEMBER 2019 REVISED AA, THEY WOULD NOT CONSIDER CONSTRUCTING “AT ANY PRICE?”

AND THE PASCO COMMISSIONERS, SITTING AS THE MPO JUST 1 MONTH AGO IN OCTOBER 2019, LISTENED TO YET ANOTHER PRESENTATION BY THE FTE AND THEIR OWN MPO CONSULTANTS (AECOM) REGARDING A PROPOSED PARTIAL CLOVERLEAF INTERCHANGE AT TOWER ROAD AND THE PARKWAY, TO BE FULLY

FUNDED BY THE FTE AS LONG AS PASCO CONSTRUCTED TOWER ROAD AT THAT LOCATION. THERE WAS NO MENTION AT THAT MPO MEETING BY ANY OF THE COMMISSIONERS THAT PASCO COUNTY HAD JUST RECENTLY TOLD THE ACOE THAT PASCO HAD NO INTENTION WHATSOEVER OF EVER CONSTRUCTING TOWER ROAD “AT ANY PRICE,” EVEN THOUGH THE MAP ON PAGE 99 OF PASCO’S 2045 LRTP, SOON TO BE SUBMITTED TO THE FEDERAL HIGHWAY ADMINISTRATION (FHWA), SHOWED THE NEED FOR THAT PROPOSED INTERCHANGE TO SERVE TOWER ROAD.

AND IN ADDITION TO ALL OF THE ABOVE, PASCO’S SAME PROPOSED 2045 LRTP, TO BE APPROVED IN MID-DECEMBER 2019 (SEE BELOW), HAS A “NEEDS MAP” SHOWING TOWER ROAD TO BE A 4-LANE ARTERIAL FROM STARKEY BLVD. EAST TO US 41 (THE PROJECT PURPOSE AREA). HOW CAN THEY TELL THE ACOE THEY WILL NEVER BUILD TOWER ROAD “AT ANY PRICE”?

THERE ARE MULTIPLE FEDERAL AGENCIES INVOLVED WITH THE REPORTING BY PASCO COUNTY OF THIS CONFLICTING, AND SEEMINGLY INTENTIONALLY MISLEADING AND DECEPTIVE INFORMATION.

THIS IS A “GIFT HORSE” TO AN ENVIRONMENTAL ATTORNEY.

COMMENT INSERT—IF AN APPLICANT INTENTIONALLY WITHHOLDS CRITICAL INFORMATION REGARDING AN ALTERNATIVE, AND FAILS TO TELL THE ACOE THERE WILL BE AN INTERCHANGE AT A LOCATION THAT HAS BEEN AN OVERPASS FOR OVER 21 YEARS, IN AN ATTEMPT TO MAKE THEIR PREFERRED ALTERNATIVE SEEM TO BE A BETTER LEDPA CHOICE, THAT BORDERS ON DECEPTION AND FRAUD. PASCO’S PROPOSED 2045 LRTP, FROM THE BELOW 06/11/2019 MPO MEETING, CONTAINS A MAP SHOWING THE FUTURE TOWER ROAD INTERCHANGE AT THE PARKWAY.

BUT 3 MONTHS LATER, EVIDENCE BELOW SHOWS THAT PASCO SUBMITTED TO THE ACOE THE PHRASE NOT “AT ANY PRICE.”

<https://www.pascocountyfl.net/ArchiveCenter/ViewFile/Item/6644>

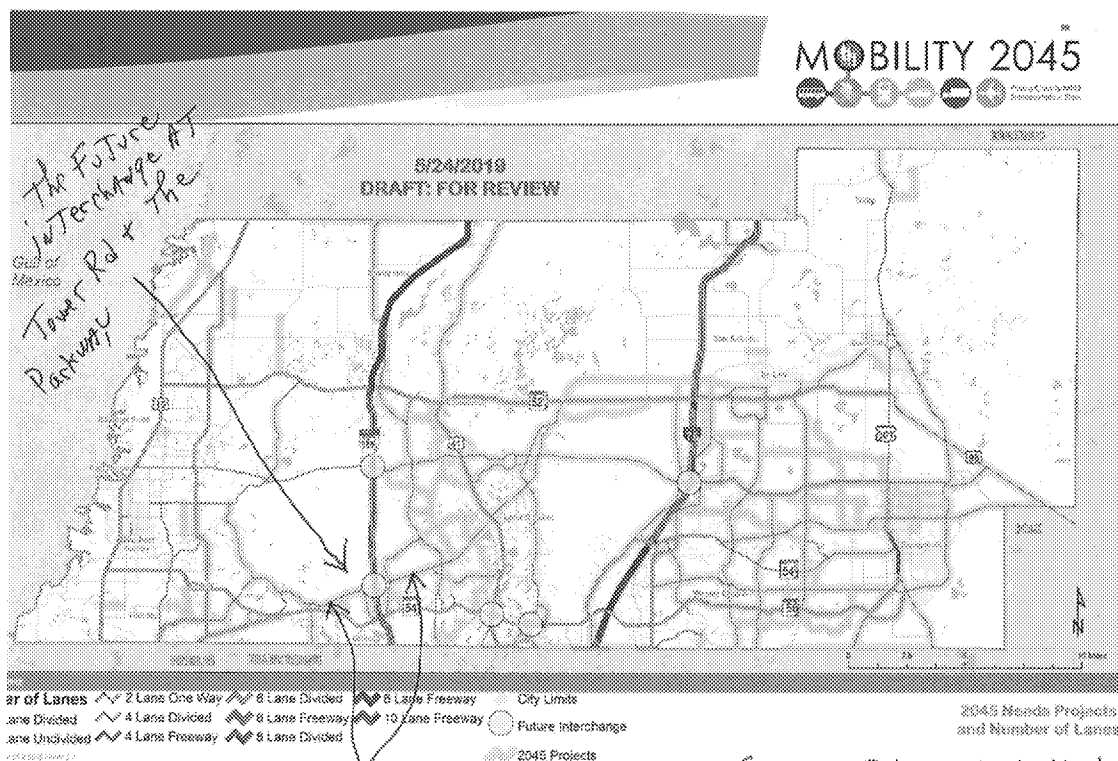
1- PAGES 98 & 99 OF 131

**AGENDA NO: IX-A DATE: June 11, 2019 COMMITTEE: MPO Board Members FROM: MPO Staff
SUBJECT: 2045 LRTP status update ACTION: Informational**

SUMMARY The MPO is required to update its Long-Range Transportation Plan (LRTP) at least every five years. The LRTP is currently being updated to the horizon year of 2045 and must be adopted by the MPO Board by December 2019. Once adopted by the MPO, the LRTP is submitted to the Florida Department of Transportation (FDOT), the Federal Highway Administration (FHWA), and the Federal Transit Administration (FTA) for future authorization of transportation funding. In preparation for the 2045 LRTP update, the MPO staff has coordinated with local and regional planning partners to develop the future estimate of population and employment growth. This growth becomes the basis for estimate future transportation project needs. Initial testing and evaluation of the needed transportation projects has been underway as well as an initial screening and determination of future project costs. The MPO's Consultant, Tindale Oliver, will provide an update on the status of the LRTP development. This presentation will cover the review of the 2045 population and jobs forecast, review of the public comments and priorities that were gathered during the It's TIME Pasco outreach campaign, an overview of the transportation project needs, as well as the next steps for receiving public comment on the needs and schedule for moving towards adoption of the LRTP by the December 11, 2019 deadline.

RECOMMENDED ACTION (S) Informational ATTACHMENT(S) 1. 2045 Draft Roadway Needs Map 2. 2045 Draft Roadway Needs List 3. 2045 Draft Transit Needs Map 4. 2045 Draft Transit Needs List

COMMENT INSERT—THE MAP BELOW, FROM PAGE 99 OF THE ABOVE 2045 LRTP SECTION OF THE MPO MEETING, SHOWS A FUTURE ARTERIAL TOWER ROAD, SHADED IN PINK, FROM STARKEY BLVD. EAST TO US 41. THAT WOULD ACHIEVE THE ACOE-DEFINED PROJECT PURPOSE IN THE RRE APPLICATION, AND WITH MUCH LESS ENVIRONMENTAL IMPACT. IT ALSO SHOWS A FUTURE INTERCHANGE AT TOWER ROAD AND THE PARKWAY.



THIS IS THE FIRST TIME IN 21 YEARS WE HAVE SEEN PASCO REFER TO THAT INTERSECTION AS ANYTHING OTHER THAN A TOWER ROAD "FLYOVER" OR "OVERPASS."

IT ALSO SHOWED THAT THERE WILL BE AN "INTERCHANGE" AT TOWER ROAD AND THE PARKWAY—INFORMATION PASCO HAS KEPT QUIET FROM THE ACOE SINCE THAT WOULD MAKE ALTERNATIVE # 10, 4-LANE TOWER ROAD, AN EVEN BETTER ALTERNATIVE. IT IS NOW IN 2019 ALREADY THE LEDPA SINCE, WHEN COMPARED TO THE RRE MOD 7A, IT HAS SO MANY FEWER ENVIRONMENTAL IMPACTS, HAS BEEN DEEMED PRACTICABLE IN AUGUST OF 2013 BY THE ACOE, IS MUCH LESS COSTLY TO PASCO, AND ONE THAT PASCO HAS RECENTLY FINALLY ADMITTED, IN THEIR LATEST 09/29/19 REVISED AA, WOULD ACHIEVE THE PROJECT PURPOSE OF PROVIDING ADDITIONAL TRAFFIC MOBILITY AND EVACUATION EAST TO US 41. ALL OF THAT INFORMATION WILL BE EVIDENCED LATER IN THIS COMMENT.

AS SUCH, THERE SIMPLY IS NO WAY THE MOD 7A CAN NOW IN 2019 BE ANY "PRELIMINARY" LEDPA. IT WOULD DEFY RATIONAL THINKING TO EVEN SUGGEST THAT THE MOD 7A-ARTERIAL IS ANYTHING CLOSE TO BEING THE LEDPA, NOT SINCE RECENT INFORMATION, ALREADY PROVIDED ABOVE, SHOWS THAT THE MOD 7A-ARTERIAL WILL HAVE OVER 40 ACRES OF DIRECT WETLAND IMPACTS, 245.3 ACRES OF INDIRECT (SECONDARY) IMPACTS AND

207 ACRES OF CUMULATIVE IMPACTS FROM THE UP TO 7 NEW INTERSECTIONS PROPOSED FOR PHASE 2.

THIS CONTRADICTS TWO 2 DECADES OF PASCO COUNTY TELLING THE ACOE THERE WILL NOT BE AN INTERCHANGE BUT ONLY AN OVERPASS—WHILE REQUIRING THE BEXLEY SOUTH MPUD TO SET ASIDE LANDS FOR SUCH A FUTURE INTERCHANGE AS A CONDITION OF THEIR MPUD IN 07/2015. PASCO HAS KNOWN FOR 4 YEARS, SINCE THE 2015 DATE THAT SET ASIDE WAS REQUIRED OF THE BEXLEY MPUD, OF THE EXISTENCE OF THAT REQUIREMENT FOR A FULL INTERCHANGE, AND THEY NEVER TOLD THE ACOE OF THAT POTENTIAL INTERCHANGE WITH THE PARKWAY AT TOWER ROAD.

COMMENT INSERT—AND BELOW IS MORE EVIDENCE, FROM PAGE 103 OF THAT SAME DOCUMENT, SHOWING THAT PASCO HAS NOT PLANNED FOR PHASE 2 OF THE RRE UNTIL AFTER 2024. IT ALSO SHOWS THAT TOWER ROAD WILL INDEED HAVE AN INTERCHANGE AT THE PARKWAY.

**Pasco MPO 2045 Long Range Transportation Plan
Draft Highway Needs**

<u>Project</u>	<u>Facility</u>				
ID # 3053	Ridge Rd Ext				
From	To	Improvement Type	Distance Miles	2024 Total Lanes	2045 Total Lanes
Suncoast Pkwy	US 41 (Land O' Lakes Blvd)	SU	3.92	00	40

AND

ID #3187	Tower Road Interchange				
From	To	Improvement Type			
SR 54	Tower Rd Extension	Interchange		Interchange Modification	

COMMENT INSERT—THE THREE PIECES OF EVIDENCE BELOW ALL SUPPORT THE FACT THAT IF AN APPLICANT PROVIDES INCOMPLETE, MISLEADING OR FALSE INFORMATION TO THE ACOE THEN EITHER NO PERMIT CAN LEGALLY BE GRANTED, OR AN ALREADY ISSUED PERMIT CAN BE “REEVALUATED” AND “APPROPRIATE ACTION WILL BE TAKEN,” AND THERE ARE “PENALTIES” FOR PROVIDING “FALSE INFORMATION.”

<https://www.epa.gov/sites/production/files/2015-03/documents/single.pdf>

PAGE 4 OF 15

If, subsequent to verification, the Corps discovers that false information has been furnished, then appropriate action will be taken.

https://www.nao.usace.army.mil/Portals/31/docs/Revised_Standard_JPA_FillableForm_MAR2014.pdf

PAGE 12 OF 33

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision... I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

<file:///C:/Documents/A-Citizens-Guide-to-the-Corps-of-Engineers-Permitting-D.pdf>

A Citizen’s Guide to the Corps of Engineers

PAGE 86 OF 194

Step 8 — Permit Decision: The Corps’ permit decision should be based on the public and agency comments received, the Clean Water Act evaluation, the NEPA evaluation, and any state or tribal review and requirements. The Corps can reevaluate an issued permit if it finds that the decision to grant the permit was based on false, incomplete, or inaccurate information, or if significant new information comes to light that was not considered in reaching the original decision.

AND FROM PAGE 88

Unless the applicant clearly demonstrates that a practicable alternative does not exist, the Corps is supposed to deny a permit that impacts a special aquatic site. This is supposed to place a very strong burden on the applicant to show that there are no practicable alternatives to the proposed activity.

There is a second legal presumption related to the practicable alternatives analysis. It is presumed that the NEPA documents that must be prepared before a permit can be issued will satisfy the practicable alternatives analysis and demonstrate that no practicable alternatives exist. 40 C.F.R. § 230.10(a)(4).

COMMENT INSERT—THE STATEMENT DIRECTLY ABOVE EMPHASIZES THE FACT THAT IT IS A “STRONG BURDEN” PLACED ON THE APPLICANT TO PROVE THERE ARE NO LESS DAMAGING PRACTICABLE ALTERNATIVES, A BURDEN THAT IN NO WAY JUSTIFIES PROVIDING FALSE, INCOMPLETE OR MISLEADING INFORMATION IN AN ATTEMPT TO DISCREDIT AN OTHERWISE PRACTICABLE AND LESS DAMAGING ALTERNATIVE (TOWER ROAD ALT. # 10—AND OTHERS AS WELL).

THIS SECTION WILL PROVIDE EVIDENCE OF SEVERAL OTHER ALTERNATIVES ALREADY DEEMED PRACTICABLE THAT ARE LESS ENVIRONMENTALLY DAMAGING AND THEREFORE MORE OF A LEDPA THAN THE MOD 7A-ARTERIAL. WE WILL CONCENTRATE ON THE TOWER ROAD ALTERNATIVE FOR REASONS THAT WILL SOON BECOME OBVIOUS.

COMMENT INSERT—SEE APPENDIX # 1 FOR EVIDENCE THAT THE BELOW STARKEY RANCH MPUD 3.5-MILE TOWER ROAD (AKA RANGELAND BLVD.) PROJECT HAS BEEN PERMITTED BY ACOE’S TRACY HURST AND IS ALMOST COMPLETE AS OF 10/2019. THE MAP BELOW SHOWS EXACTLY WHERE TOWER ROAD HAS ALREADY BEEN CONSTRUCTED AND IS IN USE—FOR A TOTAL OF 3.5 MILES IN THAT MPUD. IT ALSO SHOWS AN ADDITIONAL 1.08 MILES OF TOWER ROAD ALREADY IN USE IN THE BEXLEY MPUD FOR A TOTAL OF 4.58 MILES, HAVING TOTAL DIRECT WETLAND IMPACTS OF 9.41 ACRES + 1.39 ACRES = 10.80 ACRES. THOSE IMPACTS HAVE BEEN PERMITTED AND MITIGATED FOR AND SHOULD HAVE BEEN DEDUCTED FROM PASCO’S LATEST 09/2019 AA SUBMITTAL. PASCO CONTINUED TO SHOW THE IMPACT NUMBERS FROM 10/2015 OF 22.2 ACRES FOR THE TOWER ROAD ALTERNATIVE. THAT LAST 09/2019 AA SUBMITTAL WAS SUPPOSED TO BE REVISED/UPDATED AS PER ACOE INSTRUCTIONS, BUT IT WAS NEVER REVISED NOR UPDATED IN ANY MEANINGFUL WAY FOR OTHER ALTERNATIVES. IT JUST HAD A MOD 7A-ARTERIAL ADDITION.

IF THOSE WETLAND IMPACTS ALREADY TAKEN (10.80 ACRES) HAD BEEN SUBTRACTED FROM THE ORIGINAL 22.2 ACRES, THAT WOULD HAVE GIVEN THE CURRENT IMPACT NUMBER OF 11.40 ACRES FOR THE REMAINDER OF TOWER ROAD STILL TO BE CONSTRUCTED IN 2019.

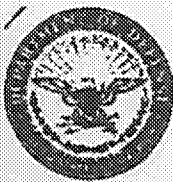
ALSO SHOWN BELOW IS THE NNP BEXLEY, LLC 1.2-MILE 1ST EXTENSION OF TOWER ROAD HAVING 5.27 ACRES OF WETLAND IMPACTS. A RECENT DRIVE OUT TO THAT LOCATION SHOWED THAT IT HAS NOT YET STARTED CONSTRUCTION AND IS STILL A DIRT ROAD. BUT THE EASTERN TERMINUS OF THAT SEGMENT IS AN INTERSECTION OF TOWER ROAD AND

SUNLAKE BLVD. AND THAT HAS BEEN COMPLETED AND IS NOW IN USE. IT SERVES THE NEW OVER 400-ACRE DEL WEBB OVER-55 RETIREMENT COMMUNITY TO THE IMMEDIATE NORTHEAST.

ALSO EVIDENCED IN THIS SECTION IS AN ADDITIONAL 4.27 ACRES OF IMPACTS CONCEPTUALLY APPROVED BY THE SWFWMD FOR WHAT WAS DESCRIBED AS THE FAR WESTERN SEGMENT OF TOWER ROAD (NOW CALLED RANGELEND BLVD.) TO MAKE THE FINAL WESTERN CONNECTION TO STARKEY BLVD., WHICH NOW HAS BEEN COMPLETED AND ALSO IS IN USE. WE DID NOT UNDERSTAND THE TAKING OF THOSE IMPACTS, SINCE THERE DID NOT APPEAR TO BE THAT MANY WETLANDS IN THAT SHORT SEGMENT ON PREVIOUS DRIVES OUT THERE BEFORE THAT SEGMENT WAS JUST RECENTLY COMPLETED, SO WE DID NOT INCLUDE THEM IN OUR REVISION OF THE CALCULATIONS.

BUT KEVIN O'KANE IN THE BELOW 11/2012 LETTER TO PASCO STATED THAT IF A PROJECT DOES HAVE A VALID CORPS PERMIT AND IS EXPECTED TO BE COMPLETE IN 5 YEARS, LIKE THE 1.2 MILE NNP BEXLEY PROJECT CITED ABOVE THAT HAS AN ACOE PERMIT GOOD TO 2024 (SEE EMAIL SEVERAL PAGES BELOW FROM ADELYN M. IRLANDA OF THE TAMPA ACOE OFFICE) THEN IT IS "...APPROPRIATE TO INCLUDE IN THE NO-ACTION ALTERNATIVE..."

THE POINT OF ALL OF THE FOLLOWING EVIDENCE IS THAT TOWER ROAD HAS BEEN PERMITTED AND COMPLETED FOR ALMOST ½ OF ITS TOTAL 11-MILE MOL LENGTH AND NEARLY ½ OF THE WETLAND IMPACTS HAVE BEEN PERMITTED AND MITIGATED FOR. AND YET, THERE IS NO SIGN OF THAT FACT IN ANY OF PASCO'S SUBMITTALS SINCE 10/2015, NOT EVEN THE LAST AA SUBMITTAL JUST 2 MONTHS AGO IN 09/2019. WHY IS THAT? IS PASCO INTENTIONALLY WITHHOLDING INFORMATION AND DATA FROM THE ACOE SO THAT THE PRACTICABLE TOWER ROAD ALTERNATIVE HAVING FEWER IMPACTS WILL LOOK LESS DESIRABLE?



DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
10117 PRINCESS PALM AVENUE, SUITE 120
TAMPA, FLORIDA 33610

November 16, 2012


REPLY TO
ATTENTION OF

Tampa Permits Section SAI-
2011-00551 (JJP-TEH)

consistent with the law. The National Environmental Policy Act requires an analysis of the no-action alternative to allow for a comparison to the potential impacts of the proposed project and other alternatives. For the proposed Ridge Road Extension project, the no-action alternative consists of the existing road network within the area bounded by SR-52 to the north, SR-54 to the south, US-41 to the east, and Moon Lake Road / DeCubellis Road / Starkey Boulevard to the west. The Corps has determined that it is also appropriate that the no-action alternative include roadway projects that have a valid Corps permit and are projected to be constructed within 5 years. Roadway projects that do not have a valid Corps permit and/or are

projected to be complete after 5 years are not appropriate to include in the no-action alternative nor can their construction be assumed in the selection of other alternatives.

Sincerely,


Kevin D. O'Kane
Chief, Tampa Permits Section

COMMENT INSERT—BELOW IS EVIDENCE THAT SWFWMD'S PERMITTER DAVID SAUSKOJUS ANSWERED OUR EMAIL VERIFYING THAT 9.41 AND 4.27 ACRES OF WETLAND IMPACTS FOR THE STARKEY RANCH MPUD HAVE ALREADY, OR SOON WILL BE, TAKEN FOR TOWER ROAD (AKA-RANGELAND BLVD.)

From: David Sauskojus [mailto:David.Sauskojus@swfwmd.state.fl.us]
Sent: Friday, May 31, 2019 9:36 AM
To: XXXXXXXXXXXX
Cc: Cliff Ondercin
Subject: RE: Starkey Ranch MPUD

Ms XXXXXXXX,

Rangeland Boulevard, which meanders through the Starkey Ranch development, has been addressed in several District permits. First, a conceptual permit (which does not actually authorize any construction) was issued (ERP No. 49028893.018), addressing the entire proposed Starkey Ranch development. Several construction permits have also been issued that address the construction of portions of Rangeland Boulevard (ERP Nos. 43028893.015, 43028893.020, 43028893.027, and 43028893.053).

The wetland/surface water impacts associated with the roadway are as follows:

- 9.21 acres of wetlands and surface waters were authorized to be impacted and are addressed in the above listed construction permits. This construction covers Phases 1 and 2 of the roadway.
- The remainder of the road (southeastern end) has not yet been issued specific construction permits, however, approximately 4.27 acres of wetland and surface waters have been conceptually approved for impact in the conceptual permit.

For your convenience I have attached the above referenced permits, however, the plan files are large and are best accessed through the District's [WMIS ERP Search website](#).

I hope this gives you the information you needed. Please let me know if there is anything else I can assist you with.

David K. Sauskojus, M.S., P.W.S.
Environmental Scientist, Lead
Environmental Resource Permit Bureau
Southwest Florida Water Management District
7601 Highway 301 North
Tampa, Florida 33637-0797
(800) 423-1476 or 813-985-7481, ext 4370
david.sauskojus@watermatters.org

WaterMatters.org/ePermitting

From: Cliff Ondercin <Cliff.Ondercin@swfwmd.state.fl.us>
Sent: Thursday, May 30, 2019 8:53 PM
To: David Sauskojus <David.Sauskojus@swfwmd.state.fl.us>
Cc: Cliff Ondercin <Cliff.Ondercin@swfwmd.state.fl.us>
Subject: FW: Starkey Ranch MPUD

I believe I sent this to you on 5/8 for response.

Please respond tomorrow.

Cliff J. Ondercin, P.W.S.
Environmental Manager
Environmental Resource Permit Bureau
Southwest Florida Water Management District
(800)423-1476 or (941) 377-3722 ext. 6537
Cliff.Ondercin@swfwmd.state.fl.us

From: XXXXXXXXXXXXXXXXXXXXXXXXXXXX

Thursday, May 30, 2019 8:28 AM

To: Cliff Ondercin <Cliff.Ondercin@swfwmd.state.fl.us>

Subject: Starkey Ranch MPUD

Mr. Ondercin,

Several weeks ago I requested the below info. It may be easier for you to just answer Question # 2, or tell me how I can research that on my own.

2) How many acres of wetlands needed to be filled to construct that Tower Road/Rangeland Boulevard in the Starkey Ranch MPUD?

Thank you.

Sincerely, XXXXXXXXX

COMMENT INSERT—THE PHOTO BELOW WAS TAKEN 4 WEEKS AGO AT THE INTERSECTION OF TOWER ROAD AND STARKEY BLVD. AT THE WESTERN TERMINUS OF TOWER ROAD IN THE STARKEY RANCH MPUD. IT HAD BEEN COMPLETED AND WAS IN FULL USE.



COMMENT INSERT—THE MAP BELOW SHOWS THE LOCATION OF THE NOW COMPLETED INTERSECTION OF TOWER ROAD WITH THE N/S SUNLAKE BLVD. THAT IS PLANNED TO CONTINUE NORTH THROUGH THE PROJECT ARTHUR, LENNAR HOMES DEEVELOPMENT AND END AT THE INTERSECTION WITH STATE ROAD 52. IN PROJECT ARTHUR’S MPUD, APPROVED BY THE PASCO BOCC AND ALREADY IN THE ADMINISTRATIVE RECORD, SUNLAKE BLVD. HAD BEEN DESCRIBED AS BEING ONE OF THE MAIN ACCESS ROADS FOR THAT DEVELOPMENT, WHILE THE E/W RRE WAS SHOWN AS A MINOR CONCEPTUAL ROADWAY NOT BEING SERIOUSLY CONSIDERED BY LENNAR HOMES. IT WAS DEPICTED AS AN UNIMPORTANT AND UNNEEDED ROADWAY.



Imagery ©2019 Google, Imagery ©2019 Landsat / Copernicus, Maxar Technologies, U.S. Geological Survey, Map data ©2019, 2000-11

T05R54

2 Lanes Already in
Use - cleared for
eventual 4 lanes.
(2019)

Measure distance

Total distance: 3.84 mi (6.18 km)

Parcel only has to construct 2 lanes of
Tower Road on Bexley South & North MPUD.
Developer must build 2 lanes & provide ROW
for all roads & construct them for 4 lanes -
So reads The Bexley MPUD.

COMMENT INSERT—THE SECOND ALREADY COMPLETED SEGMENT OF TOWER ROAD IS ON THE BEXLEY SOUTH MPUD JUST EAST OF THE PARKWAY. IT IS 1.08 MILES LONG AND REQUIRED THE FILLING OF 1.39 ACRES OF WETLANDS. BELOW IS EVIDENCE OF THE SWFWMD PERMIT FOR THAT TAKING. THERE WAS ALSO AN ACOE PERMIT ISSUED BY TAMPA’S TRACY HURST.

<http://www18.swfwmd.state.fl.us/Erp/Export/ViewDoc/mqjxrwpw.pdf>

**BEXLEY RANCH
TOWER ROAD – BEXLEY VILLAGE DRIVE TO
BALLANTRAE BOULEVARD
ENVIRONMENTAL DISCUSSION
AND WETLAND IMPACT NARRATIVE
Introduction**

The property included in this Environmental Resource Permit (ERP) request is limited to a ±34.46-acre linear parcel referred to as Tower Road – **Bexley Village Drive to Ballantrae Boulevard (Tower Road)** located near Land O’ Lakes, Florida. The site is specifically located on the southwest corner of the overall Bexley Ranch and the northern limits of the Ashley Glen property (Location Map). The Tower Road project area is bordered by the Tampa Bay Water pipeline easement and future residential development to the north, privately owned land to the south, and the Suncoast Parkway to the west (Aerial Photograph). This area will be developed as a regional collector road serving the future Bexley Ranch community and adjoining neighborhoods in accordance with the Pasco County Regional Transportation Plan. The project site is a combination of two separate parcels owned by NNP-Bexley (NNP), including Bexley Ranch and the recently acquired Ashley Glen, both now formally known as Bexley South. Bexley Ranch is a proposed mixed-use development located north of (and including) Tower Road and east of the Suncoast Parkway. The Ashley Glen parcel is located south of Bexley Ranch and is surrounded by a mix of commercial, residential, and agriculture lands (Quad Map, Aerial Photograph).

A number of small wetland impacts will be required to construct Tower Road. The majority of the proposed impacts were previously reviewed and approved under the Bexley Ranch ERP No. 43013740.004 and Ashley Glen Boulevard ERP No. 49024788.10 as described in detail below. Please note that the currently proposed Tower Road **project area is a 34.46-acre** subset of the area covered in the existing ERP’s as discussed in the following paragraphs.

PAGE 2 OF 23

As noted above, the current project limits for Tower Road is a ±34.46-acre subset of the Bexley Ranch ERP and the Ashley Glen Boulevard ERP. Within the current Tower Road project limits, there are a total of **1.39 acres of wetland and 0.13 acres of surface water impacts** previously approved as a part of ERP No. 43013740.004 and 49024788.10. A map of the originally approved wetland impacts located within the Tower Road project limits is included with this submittal (Previously Approved SWFWMD Wetland Impacts Map).

COMMENT INSERT—EVIDENCE BELOW IS FROM THE SWFWMD SITE. IT PROVIDES THE PERMIT INFORMATION/EVIDENCE FOR THE 5.29 ACRE WETLAND IMPACT FOR THE NNP BEXLEY, LLC 1ST TOWER ROAD EXTENSION THAT WILL HAVE A FUNCTIONAL UNIT LOSS OF 1.901 UNITS. THIS SEGMENT IS JUST EAST OF, AND ABUTS AS A CONTINUATION OF, THE 1.08-MILE SEGMENT DESCRIBED ABOVE. THIS IS AN EXAMPLE OF HOW FEW UMAM UNITS WILL BE LOST FOR THAT OVER 5-ACRE TAKING, BECAUSE THE ROW FOR TOWER ROAD HAS, FOR THE PAST OVER 100 YEARS SINCE 1885, BEEN CLEARED AND USED TO THE EXTENT THAT WETLANDS ANYWHERE NEAR THAT ROW ARE EXTREMELY DEGRADED AND OF LOW QUALITY, WHEN COMPARED TO THE MUCH GREATER UMAM UNIT LOSS FOR HIGH QUALITY AND PRISTINE WETLAND ECOSYSTEMS OCCURRING ON BOTH PHASES OF THE RRE ROW.

<http://www18.swfwmd.state.fl.us/Erp/Export/ViewDoc/kvewgy3l.pdf>

**ENVIRONMENTAL DISCUSSION
AND WETLAND IMPACT NARRATIVE**

For

TOWER ROAD, 1st EXTENSION

NNP BEXLEY, LLC

October 29, 2018

**ENVIRONMENTAL DISCUSSION
AND WETLAND IMPACT NARRATIVE**

For

TOWER ROAD, 1st EXTENSION

NNP BEXLEY, LLC

October 29, 2018

Introduction

The Tower Road, 1st Extension project consists of the proposed extension of Tower Road from its existing terminus just east of the Ballantrae Boulevard intersection, eastward to an interim terminus at Sunlake Boulevard. The project site is located within the Bexley North Master Planned Unit Development (MPUD), in section 15 and 16, Township 26 South, Range 18 East, Pasco County, Florida (see Location Map and Quad Map).

Existing Habitat Description

The project area consists of a mixture of uplands and wetlands which have generally been disturbed by the historic agriculture uses of the property, including habitat conversion, logging, and cattle ranching. Within the Tower Road, 1st Extension project area, the majority of the site (\pm 35.56 acres) is comprised of Crop and Pastureland (FLUCFCS Code 210) (See Aerial Maps and Land Use Map). Dominant vegetation in the pasture areas consists predominately of Bahia grass (*Paspalum notatum*) with lesser amounts of dog fennel (*Eupatorium capillifolium*), and broomsedge (*Andropogon* spp.). Wetlands and surface water habitat on the project site includes a total of \pm 5.95 acres of wetlands (FLUCFCS Code 621, 641) and \pm 1.75 acres of other surface waters (man-made agriculture ditches) (FLUCFCS Code 510) (See Land Use Map and SWFWMD Wetland Map)

Proposed Wetland Impacts

The project generally consists of an approximate 1.2-mile extension of Tower Road to provide improved transportation access within the existing and planned Bexley development as depicted on the project construction plan prepared by Clearview Land Design. The design of the project includes the construction of a 2-lane road, turn lane, bicycle lane, sidewalk, associated shoulders and side slopes, and the required stormwater management and treatment system. **Once completed, Tower Road is envisioned by Pasco County to be a four-lane roadway providing a much-needed public transportation corridor north of and parallel to SR 54 as a critical alternate east-west route in central Pasco County and alleviating traffic on overburdened local and state roads, including US 41 and Hwy 54.** In consideration of the regional transportation demands, Pasco County is requiring NNP-Bexley, per the 2015 Bexley North MPUD approval, to design, permit, and construct the portion of Tower Road through its property. The project will result in nine permanent wetland impacts totaling 5.27 acres and six surface water impacts totaling 1.71 acres (see Wetland Impact Map). The project will also result in a total of 2.35 acres of secondary wetland impacts (see Wetland Impact Map). The wetlands proposed for impact all have some level of past disturbance from the former use of the corridor as a railroad (Orange Belt Railway), the construction associated with the installation of a Tampa Bay Water utility line, and the former agriculture use of the property (e.g. cattle ranching, ditching, logging) and are required to accommodate the construction of the proposed road extension, including the associated sidewalks, utilities, and stormwater management system.

Wetland Impact Function Assessment

An assessment of the proposed wetland impacts was conducted using UMAM. Based on this analysis, the proposed wetland impacts result in 1.90 units of functional loss (-1.11 herbaceous and -0.79 forested.) A copy of the UMAM data sheets are included with this report.

COMMENT INSERT—THE SECTION ABOVE HIGHLIGHTED IN PURPLE PROVIDES MORE EVIDENCE, DIRECTLY FROM THE NNP BEXLEY, LLC DEVELOPER, THAT PASCO COUNTY ENVISIONS TOWER ROAD TO BE A MAJOR ARTERIAL “...CRITICAL ALTERNATE EAST-WEST ROUTE...” AND YET OVER ONE YEAR LATER PASCO TELLS THE ACOE, IN PASCO’S 09/2019 UPDATED AA, THAT THEY WANT NOTHING TO DO WITH TOWER ROAD “AT ANY PRICE.”

THIS IS ANOTHER EXAMPLE THAT VERIFIES THE FACT THAT PASCO IS INTENTIONALLY MISLEADING THE ACOE AND THE PUBLIC IN ORDER TO DISCREDIT THE TOWER ROAD ALTERNATIVE AND GET THEIR PREFERRED MOD 7A-ARTERIAL.

COMMENT INSERT—THE EVIDENCE BELOW IS FROM THE TAMPA OFFICE OF THE ACOE. IT IS A RECENT RESPONSE TO A PASCO CITIZEN WHO INQUIRED ABOUT THE EXISTENCE OF AN ACOE CWA 404 PERMIT FOR THE ALREADY SWFWMD PERMITTED NNP BEXLEY, LLC MPUD FOR THE 1.2-MILE, HAVING 5.27 ACRES OF IMPACT, 1ST EXTENSION OF TOWER ROAD FROM BALLANTRAE BLVD. EAST TO SUNLAKE BLVD. ALTHOUGH THE ACOE PERSON WAS UNABLE TO FIND THAT PERMIT TO SEND TO THE CITIZEN, THAT ACOE PERSON DID CONFIRM THAT THE ACOE HAD ISSUED A 404 PERMIT FOR THOSE 5.27 ACRES OF IMPACT, STATING IT WAS GOOD UNTIL 2024.

From: **Tampa Reg** <TampaReg@usace.army.mil>

Date: Fri, Nov 15, 2019 at 3:13 PM

Subject: RE: [Non-DoD Source] Ridge rd extension Tower Road Question

To: Gina Digregorio <ginadigregorio1984@gmail.com>

Good afternoon,

From what I'm able to see, it appears the portion of Tower Road that you are referring to is part of another phase of the Bexley development so I imagine it will eventually be extended. Currently, the permit is good until 2024, meaning it could be a while before the roadway is extended.

Unfortunately, I have been trying to retrieve a copy of the permit and its subsequent permit modification for a couple of hours now but our electronic filing system freezes halfway through the process. If I'm able to get through to the project file, I will send you a copy of the permit.

Respectfully,
Adelyn M. Irlanda
U.S. Army Corps of Engineers
10117 Princess Palm Ave., Suite 120
Tampa, FL 33610
 (813)769-7073

*** Our files are 100% electronic. Please send NEW PERMIT APPLICATIONS to tampareg@usace.army.mil

*** File too large to send through email? Please contact us to obtain a code/link to our Secure Access File Exchange. Once you have received your code, go to <https://safe.apps.mil/> to "Drop-off" (upload) your file.

*** Send compliance-related documents to SAJ-RD-Enforcement@usace.army.mil

COMMENT INSERT—THE QUESTION CAN BE ASKED "WHY DID PASCO COUNTY NOT REPORT ALL OF THE ABOVE CONSTRUCTION COMPLETIONS AND PROPOSALS ALREADY APPROVED BY THE SWFWMD AND THE ACOE ON THEIR LATEST REVISED/UPDATED 09/2019 ALTERNATIVES ANALYSIS?"

IT WILL LIKELY BE VERY DIFFICULT FOR THE FEDERAL JUDICIARY TO NOT NOTICE THIS OMISSION, AND SEE IT AS AN ATTEMPT ON THE PART OF THE APPLICANT PASCO COUNTY TO WITHHOLD FROM THE ACOE ALL OF THE WETLAND IMPACTS THAT HAVE BEEN COMPLETED FOR THE TOWER ROAD ALTERNATIVE # 10. THAT ALTERNATIVE IS NOW LEFT WITH A MERE FRACTION (1/4TH-1/2) OF THE ORIGINAL 22.2 ACRES OF WETLAND IMPACTS, THEREBY MAKING IT MUCH MORE OF A LEDPA THAN ANY ALTERNATIVE CONTAINING ANY TWO OR FOUR LANE VERSION OF THE RRE.

EVIDENCE THAT ALTERNATIVES OTHER THAN THOSE CONTAINING THE RRE WERE DETERMINED TO BE PRACTICABLE.

SECTION 1B—OTHER ALTERNATIVES ALREADY DETERMINED TO BE “PRACTICABLE” THAT ARE NOW IN 2019, MORE OF A LEDPA THAN THE MOD 7A-ARTERIAL.

COMMENT INSERT—THE ALTERNATIVES LISTED BELOW WERE DETERMINED TO BE PRACTICABLE BACK IN 1013 BY REGULATORY CHIEF DONALD KINARD AND DEPUTY CHIEF TORI WHITE (SEE LETTER BELOW). THEY ARE STILL PRACTICABLE NOW IN 2019. ALL OF THE BELOW ALTERNATIVES SUFFER FROM EDGE EFFECTS, SINCE THEY INVOLVE LOWER QUALITY WETLANDS ALONGSIDE EITHER EXISTING PAVED ROADS OR DIRT ROADS (TOWER ROAD), RESULTING IN LESS UMAM FUNCTIONAL UNIT LOSS THAT WILL REQUIRE LESS MITIGATION.

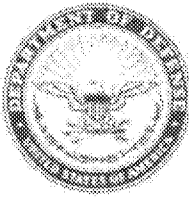
- 7 -- Mod 7A-Arterial
- 8 -- SR 52 add 4-Lanes
- 9 -- SR 54 add 4-Lanes
- 10-- 4-Lane Tower Road
- 11 --SR 54—4 Lanes Elevated
- 12-- 2-Lane Tower Road SR 54 add 2-Lanes
- 13-- SR 52 add 2-Lanes SR 54 add 2-Lanes
- 14-- 2-Lane Tower Road SR 52 add 2-Lanes

COMMENT INSERT—THE SEGMENT OF THE BELOW LETTER IS ALREADY IN THE ADMINISTRATIVE RECORD. IT WILL SERVE AS A REMINDER THAT BOTH ACOE OFFICIALS REFERRED TO ABOVE MADE THE OFFICIAL DETERMINATION IN 2013 OF ALL ALTERNATIVES THAT WERE PRACTICABLE AND MUST BE FULLY EVALUATED. FROM THAT LIST OF “PRACTICABLE” ALTERNATIVES, THE ONE WITH THE LEAST ENVIRONMENTALLY DAMAGING IMPACTS WOULD BE THE LEDPA. THAT BELL HAS OFFICIALLY BEEN RUNG.

IF THIS COMMENT, AS PART OF THE ADMINISTRATIVE RECORD, EVER GETS TO THE POINT OF BEING EXAMINED BY MEMBERS OF THE FEDERAL JUDICIARY, EITHER AT THE CIRCUIT COURT LEVEL, AT AN APPEALS COURT, OR EVEN AT SCOTUS IF THEY ACCEPT THIS CASE, THEN ANY LEDPA DECISION BY THE ACOE, THAT PLACES ‘SUBJECTIVE’ FACTORS OVER ACTUAL LEDPA ENVIRONMENTAL REQUIREMENTS, IN ORDER TO “MAKE IT WORK” FOR THE APPLICANT, ANY SUCH AGENCY LICENSE INVOLVING AN OVERLY LIBERAL INTERPRETATION OF FEDERAL LAW AND CONGRESSIONAL INTENT, THAT WILL IN EFFECT AMOUNT TO A VIOLATION OF FEDERAL LAW, IS CERTAIN TO STAND OUT IN GLARING FORM TO THOSE MEMBERS OF THAT JUDICIAL BODY. MORE ON THAT ISSUE LATER.

CHIEF KINARD AND DEPUTY CHIEF WHITE WERE VERY SPECIFIC IN TELLING PASCO BELOW THAT THOSE PRACTICABLE ALTERNATIVES “...SHOULD BE FULLY EVALUATED.”

IN NOONE’S LEXICON IS THE MISREPRESENTATION AND OMISSION OF CRITICAL INFORMATION REGARDING AN ALTERNATIVE, AS DESCRIBED EARLIER IN THIS COMMENT, CONSIDERED TO BE A FULL “EVALUATION.”



DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
10117 PRINCESS PALM AVENUE, SUITE 120
TAMPA, FLORIDA 33610

August 8, 2013

REPLY TO
ATTENTION OF

Tampa Permits Section
SAJ-2011-00551 (IP-TEH)

Ms. Georgianne Ratliff
Ratliff Consulting Group, LLC
11300 Suncreek Place
Tampa, Florida 33617

Mr. John Post, Jr.
Florida Department of Transportation
Florida's Turnpike Enterprise
Post Office Box 613069
Ocoee, Florida 34761

Dear Ms. Ratliff and Mr. Post:

PAGE 6

In summary, the alternatives that must be fully evaluated include: 1) the no-action alternative;⁹ 2) the Ridge Road Extension alignments (6D-6G); 3) improvements to (or construction of) SR-52, SR-54, Tower Road, and Ridge Road Extension that combine to provide 4 additional/new lanes;¹⁰ and 4) a fully elevated Ridge Road Extension through the Serenova Tract.

Sincerely,

Donald W. Kinard
Chief, Regulatory Division

COMMENT INSERT—IN PASCO’S MOST RECENT SUBMITTAL TO THE ACOE JUST TWO MONTHS AGO, OF THEIR WHAT THEY TERMED “UPDATED/REVISED” AA ADDENDUM, THEY WERE FORCED TO ADMIT THAT MOST OF THEIR PREVIOUS “OBSTACLES TO CONSTRUCTION” FOR ALTERNATIVE # 10 TOWER ROAD ARE NO LONGER TRUE NOR VALID, THEREBY MAKING ALT # 10 THE INESCAPABLE NEW LEDPA, SINCE IT NOW HAS SO MANY FEWER ENVIRONMENTAL IMPACTS, LESS COST TO PASCO, HAS BEEN DETERMINED BY PASCO (AND THE ACOE IN 2013) TO BE “PRACTICABLE,” AND NOW IN 11/2019 IS RECOMMENDED FOR A FULL INTERCHANGE WITH THE SUNCOAST PARKWAY BY THE FLORIDA TURNPIKE ENTERPRISE AND THE PASCO COUNTY MPO’S OWN CONSULTING FIRM. THE FEW INSTANCES WHERE PASCO OBJECTS TO TOWER ROAD HAVE VERY WEAK JUSTIFICATIONS, AS IN ONLY 20 RESIDENTIAL IMPACTS AND AN OVERLY STATED LARGELY IMAGINARY NEGATIVE IMPACT TO COMMUNITY “COHESION.” WE WILL PROVIDE EVIDENCE SHOWING PASCO HAD NO SUCH QUALMS IN THE PAST WHEN FUNDING PROJECTS LIKE THE CHANCEY ROAD EXTENSION THAT CAUSED OVER 50 RESIDENTIAL IMPACTS AND REQUIRED THE DEMOLITION OF A PASCO COUNTY FIRE STATION, AND THEIR WIDENING FOR OVER 3 MILES OF STATE ROAD 54 TO 6 LANES EAST OF I-75 THAT IMPACTED OVER 100 RESIDENCES AND REQUIRED THE DEMOLITION OF TWO GAS STATIONS. THAT EVIDENCE IS ALREADY IN THE ADMINISTRATIVE RECORD IN PAST COMMENTS. COMPARTED TO THOSE TWO EXAMPLES OF PASCO’S PAST BEHAVIORS, THE NEGATIVE IMPACTS TO 20 RESIDENCES WITH 12 RELOCATIONS, AND IMPACTS TO COMMUNAL “COHESION” FOR TOWER ROAD IS LIKE COMPARING A PIMPLE (TOWER ROAD) TO TWO WATERMELON-SIZE CARCINOGENIC ABCESES.

WE WILL NOW PROVIDE EVIDENCE THAT REBUTS PASCO’S ATTEMPTS TO DISQUALIFY ALTERNATIVES NOT CONTAINING THEIR PREFERRED RRE. AS AN INTRODUCTORY OUTLINE, WE SUBMIT THE FOLLOWING PASCO OBJECTIONS FOLLOWED BY A SHORT STATEMENT OF WHY THESE OBJECTIONS BY PASCO TO NON-RRE ALTERNATIVES ARE SPECIOUS AT BEST.

- 1—NOT ON PASCO’S LRTP--THE ACOE HAS OVER & OVER TOLD PASCO THEY CAN PLACE ANY ALTERNATIVE ON THEIR LRTP FOR FUTURE CONSIDERATION BY THE FDOT, SOMETHING THEY JUST DID FOR THE MOD 7A-ARTERIAL, EVEN THOUGH THAT DOES NOT NEED FDOT CONSIDERATION.**
- 2—SAFETY CONCERNS BY PASCO—TOWER ROAD IS NOW OK FOR PASCO ON THIS ISSUE.**
- 3—IMPACTS TO RESIDENCES, BUSINESSES AND COMMUNITY “COHESION”—VERY WEAK ISSUE THAT IS BELIED BY PASCO’S PAST PROJECTS.**
- 4—PROVISION FOR EVACUATION—PASCO NOW NOW SAYS TOWER ROAD OK FOR THIS PURPOSE.**
- 5—LIKELY TO RECEIVE AN FDOT PERMIT WHEN REQUIRED—THE ACOE HAS TOLD PASCO THAT ISSUE WILL DISAPPEAR WHEN PASCO ADDS THAT ALTERNATIVE TO THEIR LRTP.**
- 6—COST—PASCO SAYS COST IS A FACTOR, THAT THEY NOW CAN AFFORD TOWER ROAD, THAT THEY CANNOT AFFORD THE RRE PHASE 2, AND THAT THEY WILL NOT CONSIDER TOWER ROAD QUOTE: “AT ANY PRICE.” REALLY? AND THE ACOE SHOULD USE THAT EXCUSE TO DISMISS TOWER ROAD FROM CONSIDERATION AS THE OBVIOUS LEDPA NOW IN 11/2019? THAT ARGUMENT IS DISINGENUOUS.**

7—ACHIEVES PROJECT PURPOSE—AND HOW DOES NOT HAVING PHASE 2 OF THE RRE ON PASCO’S LRTP UNTIL AFTER 2025, WAY BEYOND THE 5-YEAR CWA 404 IP VALIDITY PERIOD, ACHIEVE THE PROJECT PURPOSE WHEN TOWER ROAD IS ALREADY ½ WAY TO US 41? AND HOW IS THE PROJECT PURPOSE ACHIEVED BY THE RRE IF PHASE 1, ACCORDING TO PASCO’S PROJECT MANAGER SAM BENECK, WILL BE “BARRICADED” AT ITS EASTERN TERMINUS ½ MILE EAST OF THE PARKWAY?

SPECIFIC EVIDENCE THAT THREE ADDITIONAL PAST OBJECTIONS BY PASCO COUNTY TO TOWER ROAD BEING THE NEW LEDPA ARE WITHOUT MERIT, INCLUDING PART-A HAVING TOO MANY RESIDENTIAL AND BUSINESS IMPACTS AND REDUCING COMMUNITY “COHESION,” PART-B LACKING IN EVACUATION OPPORTUNITIES (NOW IN 2019 WITHDRAWN BY PASCO), AND PART-C HAVING UNACCEPTABLE COSTS (NOW IN 2019 ALSO WITHDRAWN BY PASCO).

PART A—PASCO’S OBJECTIONS BASED ON IMPACTS TO RESIDENCES, BUSINESSES AND COMMUNITY “COHESION” FOR TOWER ROAD ARE BASELESS.

COMMENT INSERT—SEE APPENDIX # 2 FOR THE COMPLETE EVIDENCE THAT PASCO HAS APPROVED PROJECTS IN THE PAST THAT HAD MANY MORE IMPACTS TO RESIDENCES AND BUSINESSES THAN TOWER ROAD WILL HAVE, RENDERING THOSE OBJECTIONS TO TOWER ROAD BASELESS. WE HAVE ALREADY COMMENTED IN THE ADMINISTRATIVE RECORD TO THE FACT THAT PASCO’S OWN PAST ROAD WIDENING PROJECTS HAVE IMPACTED OVER 100 PROPERTIES AND 2 GAS STATIONS TO ADD 4 LANES TO SR 54 EAST OF I-75, AND IMPACTED OVER 50 RESIDENCES AND MOVED A FIRE STATION TO EXTEND CHANCEY ROAD. THEIR OBJECTIONS NOW IN 2019 TO AFFECT 20 PROPERTIES AND MOVE 12 RESIDENCES FOR TOWER ROAD ALTERNATIVE # 10, IN AN ATTEMPT TO DESTROY TOWER ROAD’S ELIGIBILITY TO BE THE LEDPA, ARE SIMPLY NOT A FACTOR WHEN CONSIDERING PASCO’S PAST BEHAVIORS. REGULATORY CHIEF KINARD AND DEPUTY CHIEF WHITE TOLD PASCO IN THEIR BELOW 2013 COMMUNICATION THAT PASCO’S ATTEMPT TO DECLARE TOWER ROAD INELIGIBLE TO BE THE LEDPA BASED ON RESIDENTIAL AND BUSINESS IMPACTS WAS “INAPPROPRIATE.”

“ADDITIONALLY, YOU HAVE DETERMINED THAT THE RESIDENTIAL/ BUSINESS IMPACTS ASSOCIATED WITH ALTERNATIVES 9-14 OF YOUR APRIL 15, 2013 SUBMITTAL RENDERS THESE ALTERNATIVES IMPRACTICABLE, BUT THESE ALTERNATIVES ARE FEATURED IN WHOLE OR IN PART ON THE LRTP...THEREFORE THE CORPS MAINTAINS THAT IT IS INAPPROPRIATE TO EXCLUDE ALTERNATIVES AS IMPRACTICABLE BASED ON THIS INFORMATION.”

DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
10117 PRINCESS PALM AVENUE, SUITE 120
TAMPA, FLORIDA 33610

REPLY TO
ATTENTION OF

Tampa Permits Section
SAJ-2011 -00551 (IP-TEH)
Ms. Georgianne Ratliff
Ratliff Consulting Group, LLC
11300 Suncrest Place
Tampa, Florida 33617

Mr. John Post, Jr.
Florida Department of Transportation
Florida's Turnpike Enterprise
Post Office Box 613069
Orlando, Florida 32816

Dear Ms. Ratliff and Mr. Post:
August 8, 2013

PAGE 4

The AEC states that Pasco cannot use residential + business impacts to deem an alternative impracticable when that alternative is on PASCO's LRTP.

the "average" alternative requires only 2.5 residential/business impacts per mile. The Corps finds the elimination of alternatives from further analysis based on the average amount of residential and business impacts for the identified project alternatives to be arbitrary in nature. You have not explained why exceeding such a threshold renders an alternative impracticable. Also, the range of impacts to residences and businesses (i.e., 0-13, excluding Alternative 6B) is modest for alternatives of this length in a rapidly developing county.⁴ Additionally, you have determined that the residential/business impacts associated with Alternatives 9-14 of your April 15, 2013 submittal renders these alternatives impracticable, but these alternatives are featured in whole or in part on the LRTP, which appears to be inconsistent with your determination.

Therefore, the Corps maintains that it is inappropriate to exclude alternatives as impracticable based on this information.⁵ The Corps has reconsidered the proposed impacts Alternative 6B.

This alternative would impact 144 residences, which far exceeds the impacts of any other alternative. The high number of impacts is due to the fact that Alternative 6B would traverse through an existing subdivision south of the proposed alignment near the western terminus. The Corps finds the high number of impacts associated with Alternative 6B unreasonable in terms of logistics with respect to the overall scope of the proposed project and therefore determined that Alternative 6B is not practicable and may be eliminated from further evaluation.

Sincerely,



Donald W. Kinard
Chief, Regulatory Division

COMMENT INSERT—PASCO’S RECENT STATEMENTS BELOW, IN THEIR 09/2019 AA ADDENDUM, IGNORE CHIEF KINARD’S ABOVE DIRECTION AS THEY CONTINUE TO ESPOUSE THEIR NOW “INAPPROPRIATE” OPINION THAT RESIDENTIAL IMPACTS AND “COHESION” ISSUES RENDER TOWER ROAD AND OTHER ALTERNATIVES INELIGIBLE FOR BEING THE LEDPA, AN OPINION THAT FLYS IN THE FACE OF CHIEF KINARD’S DECLARATION.

ONCE AGAIN, PASCO IS FEEDING CONFLICTING AND BLATANTLY FALSE INFORMATION TO THE ACOE BY STATING THAT, NOW IN 2019, THEY CONSIDER IMPACTING A MERE 20 RESIDENCES A SERIOUS PROBLEM AFTER HAVING NO PROBLEM AT ALL IMPACTING FOR PAST PROJECTS FROM 2.5 TO 5 TIMES MORE PROPERTIES THAN THE 20 FOR TOWER ROAD.

3) Are impacts to residences and businesses acceptably low to the County? - Alternatives 2, 4, 8, 10, 12, 13, 14 and 15 would still have impacts to residences and businesses that are not acceptably low to the County. Alternatives 2, 10, 12 and 14 are still considered particularly unacceptable because of serious community cohesion disruption in addition to the number of residences that would be taken.

COMMENT INSERT—FIVE WEEKS LATER ON SEPTEMBER 16, ACOE’S 2013 TAMPA SECTION CHIEF KINARD AGAIN REMINDED PASCO OF THE FACT THAT THEIR OBJECTIONS TO TOWER ROAD, AND OTHER ALTERNATIVES, BASED ON RESIDENTIAL IMPACTS WAS INCORRECT AND NOT ACCEPTABLE:



PASCO COUNTY, FLORIDA

"Bringing Opportunities Home"

September 16, 2013

Mr. Donald W. Kinard
Chief, Regulatory Division
Department of the Army
Jacksonville District Corps of Engineers
10117 Princess Palm Avenue, Suite 120
Tampa, Florida 33610

Re: SAJ-2011-00551 (IP-THE)

During a meeting between the Project Team and the Corps reviewer, Ms. Tracy Hurst, on August 12, 2013, we discussed the methodology and content of the Cumulative and Secondary Analysis (C&S) and the possibility of submitting the C&S separately and subsequent to the other responses to the July 23, 2012 RAI. Ms. Hurst subsequently responded by e-mail that the Corps would allow the County to submit the Alternatives Analysis and responses to other RAI questions separately from the C&S, while noting that this would delay the Corps' decision on the permit. Pasco County has determined that we would prefer to submit one total package responding to the July 23, 2012 RAI and avoid any further delay. In order to have adequate time to complete the species surveys (which have been delayed due to the excessive rainfall that prevented access to some of the areas to be surveyed) and to have time to complete the C&S, Pasco County is requesting an extension to December 18, 2013 for submittal of the complete response to the RAI dated July 23, 2012.

Page 5 – "Additionally, you have determined that the residential business impacts associated with Alternatives 9-14 of your April 15, 2013 submittal renders these alternatives impracticable, but these alternatives are features in whole or in part on the LRTP, which appears to be inconsistent with your determination.

COMMENT INSERT—AND 5 MONTHS BEFORE THAT ON APRIL 24, 2013 PASCO WAS AGAIN NOTIFIED THAT ALTERNATIVES WHICH DID NOT INCLUDE THEIR PREFERRED RRE WERE INDEED PRACTICABLE AND COULD NOT BE FOUND IMPRACTICABLE BASED ON FACTORS PASCO WAS ATTEMPTING TO EMPLOY. AND TOWER ROAD WAS SINGLED OUT BY SECTION CHIEF KEVIN O'KANE TO INDEED BE "PRACTICABLE." HOW MANY MORE ACOE HIGHER UPS MUST DECLARE TOWER ROAD "PRACTICABLE" UNTIL PASCO COUNTY FINALLY GETS THE MESSAGE? AND IF PASCO HAD DONE WHAT THEY WERE INSTRUCTED TO DO AND "FULLY EVALUATED" TOWER ROAD, THEY WOULD HAVE SEEN THAT IT WAS THE LEDPA, SINCE IT HAD SO MANY FEWER ENVIRONMENTAL IMPACTS THAN THEIR PREFERRED RRE.



DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
10117 PRINCESS PALM AVENUE, SUITE 120
TAMPA, FLORIDA 33610

April 24, 2013

REPLY TO
ATTENTION OF

Tampa Permits Section
SAJ-2011-00551 (IP-TEH)

Ms. Michele Baker
Pasco County Board of County Commissioners
7530 Little Road, Suite 320
New Port Richey, Florida 34654

Mr. John Post, Jr.
Florida Department of Transportation
Florida's Turnpike Enterprise
Post Office Box 613069
Ocoee, Florida 34761

Dear Ms. Baker and Mr. Post:

This is in reference to your permit application requesting authorization from the U.S. Army Corps of Engineers (Corps) to impact waters of the United States in association with a project known as "Ridge Road Extension" (SAJ-2011-00551 (IP-TEH)).

The Corps is in receipt of your April 15, 2013 letter, which contains information related to the practicability of project alternatives. You have proposed to eliminate 14 of 18 identified alternatives from further evaluation, finding each impracticable based on cost, residential and business impacts, and obstacles to construction.

In our previous correspondence, we requested that you not utilize the matrix that you provided and instead base your elimination of alternatives on the Clean Water Act Section 404(b)(1) Guidelines (Guidelines). The Guidelines state that an alternative is practicable if it is available and capable of being done after taking into consideration cost, existing technology and logistics in light of overall project purposes. The Corps has evaluated the provided information in the context of the Guidelines. The purpose of this letter is to convey our findings and advise you of the project alternatives that must be fully evaluated per the Guidelines with the alternatives analysis.

You have proposed the elimination of alternatives from further analysis that exceed 125% of the cost of the proposed project, resulting in the elimination of 12 alternatives based on this factor alone. This threshold is based on the contingency cost allowance of 25% employed by the Florida Department of Transportation (FDOT). The Corps believes that elimination of alternatives, based on cost, that are featured in whole or part on the Cost Affordable Long Range Transportation Plan (LRTP) is inappropriate. The vast majority of project alternatives are featured in whole or part on the Cost Affordable LRTP. The Guidelines require an analysis of all alternatives which are reasonable in terms of the overall scope and cost of the proposed project.

After "... Taking into
consideration cost..." The
RRE is no longer practicable
As stated below since it
is now unaffordable & does not
achieve the "overall project purpose..."
TO GO EAST TO US 44

Your calculations indicate that construction of elevated lanes on SR-52 and SR-54 would be very costly (\$746 million and \$1.3 billion, respectively) in comparison to the \$65 million cost of the proposed project. The Corps finds these costs to be unreasonable in terms of the overall scope and cost of the proposed project. These two alternatives (Alternatives 3 and 15 of your April 15, 2013 submittal) may be eliminated from further consideration and analysis.

You have proposed the elimination of alternatives from further analysis that exceed the average amount of residential and business impacts for the identified project alternatives, resulting in the elimination of 10 alternatives based on this factor alone. The Corps finds the elimination of alternatives from further analysis based on the average amount of residential and business impacts for the identified project alternatives to be arbitrary in nature.

You have proposed the elimination of alternatives from further analysis that require major modifications to interchanges or bridges. Specifically, you state that SR-52 and SR-54 cannot be widened past the 6 lanes given the constraints of the Suncoast Parkway. The Corps finds that use of transitional zones outside the constraints of the Suncoast Parkway renders such alternatives otherwise practicable. For this reason, the Corps finds that elimination of the affected alternatives (Alternatives 2 and 14 of your April 15, 2013 submittal) from further analysis to be inappropriate.

You have proposed the elimination of alternatives from further analysis that involve the construction of Tower Road based on easement issues associated with a Tampa Bay Water utility line. Tower Road is featured on the current LRTP and the Corps finds it inappropriate to eliminate an alternative that was clearly deemed feasible during generation of the LRTP.

In summary, based on our review of the information contained in your April 15, 2013 letter, we concur with the elimination of Alternatives 3 and 15 which involve elevated additions to SR-52 and SR-54. We disagree with your proposed elimination of all other alternatives from further analysis, as described above. We recommend that such data on cost and residential and business impacts be incorporated in your full evaluation of project alternatives, rather than a means to eliminate alternatives from consideration at this time. The alternatives that must be fully evaluated include: 1) the no-action alternative; 2) the Ridge Road Extension alignments (6B, 6D-6G); 3) improvements to (or construction of) SR-52, SR-54, Tower Road, and Ridge Road Extension that combine to provide 4 additional/new lanes¹; and 4) a fully elevated Ridge Road Extension through the Serenova Tract.

In correspondence dated March 4, 2013, the Corps extended the time allotted for you to respond to the Corps' Request for Additional Information (RAI) dated July 23, 2012. The Corps reiterates here that full response to the July 23, 2012 RAI must be provided to the Corps no later

¹ e.g., adding 2 lanes to SR-52 and 2 lanes to SR-54, for a total of 4 lanes, etc.

And above Tower Road "... was clearly deemed feasible..."

-3-
*Tower Road must
be "fully evaluated."*

than September 30, 2013. As outlined above, the alternatives that must be fully evaluated include: 1) the no-action alternative; 2) the Ridge Road Extension alignments (6B, 6D-6G); 3) improvements to (or construction of) SR-52, SR-54, Tower Road, and Ridge Road Extension that combine to provide 4 additional/new lanes; and 4) a fully elevated Ridge Road Extension through the Serenova Tract. If you do not respond with the requested information or a justification why additional time is necessary, then your application will be considered withdrawn or a final decision will be made, whichever is appropriate. If additional time is requested, the district engineer will either grant the time, make a final decision, or consider the application withdrawn.

Should you have any questions or comments regarding this letter, please contact Tracy Hurst of my staff at the letterhead address, by phone at 813-769-7063, or by electronic mail at Tracy.E.Hurst@usace.army.mil.

Sincerely,

OKANEK
BY/ND.12
31181438

Kevin D. O'Kane
Chief, Tampa Permits Section

cc:

Mr. Ron Miedema
Wetlands and Marine Regulatory Section
U.S. Environmental Protection Agency
61 Forsyth St.
Atlanta, GA 30303-8960

EVIDENCE THAT PASCO FINALLY ADMITS THAT THE TOWER ROAD ALTERNATIVE, AS WELL AS OTHER ALTERNATIVES, WILL INDEED PROVIDE EVACUATION OPPORTUNITIES.

COMMENT INSERT—NOTE HOW PASCO FINALLY ADMITS IN 2019 THAT THE TOWER ROAD ALTERNATIVE WILL PROVIDE EVACUATION OPPORTUNITIES.

**Addendum
to
Alternative Analysis
for
Ridge Road Extension**

**PREPARED FOR:
Pasco County Engineering Services Department
PREPARED BY:
NV5, INC.
1713 South Kings Avenue
BRANDON, FLORIDA 33511
July 2019**

Section 4.0 COMPARATIVE EVALUATIONS OF ALTERNATIVES/APPARENT LEAST ENVIRONMENTALLY DAMAGING PRACTICABLE ALTERNATIVE (LEDPA)

4) Available as additional evacuation route? - The alternatives that include the Ridge Road Extension (2-7, Mod 7, Mod 7A, 15, 16, and 17) and Tower Road (10, 12, 14, and 15) provide an additional evacuation route.

COMMENT INSERT—AND 5 WEEKS AGO ON 10/09/2019, A LOCAL NEWSPAPER REPORTED IN THE ARTICLE BELOW THAT THE NEW PASCO DIRECTOR OF EMERGENCY MANAGEMENT STATED THAT FOR EVACUATION PURPOSES

“...local residents need not go far” AND “He advised against driving all the way out of state... “ AND “...he suggested, “go 10 miles.”

SO THE ENTIRE PROPOSITION OF THE NEED TO HAVE ROADWAYS TO EVACUATE TO GEORGIA ARE WITHOUT MERIT—A SHORT FIVE MINUTE DRIVE TO A FRIEND’S HOUSE OUTSIDE OF THE FLOOD ZONE IS ALL THAT IS NEEDED.

<http://lakerlutznews.com/lln/?p=70983>

Weather hurricanes: Prepare early

October 9, 2019 By Kevin Weiss

Early preparation and preparedness are vital when it comes to weathering hurricanes or other life-threatening storms.

That was the main message that Andrew Fossa, emergency management director for Pasco County, delivered during a Greater Pasco Chamber of Commerce September breakfast meeting at Seven Springs Golf & Country Club.

The county's emergency management division deals with all kinds of hazards, ranging from wildfires and extreme heat, to sinkholes and tornadoes — but Fossa focused much of his talk on hurricanes and tropical storms, or what he refers to as “gray sky days.”

Pasco County emergency management director Andrew Fossa was the featured guest speaker at last month's Greater Pasco Chamber of Commerce breakfast meeting at Seven Springs Golf & Country Club in Trinity. (Courtesy of Pasco County)

The emergency director told the audience that once the county begins notifications regarding an imminent storm — such as announcing shelter and sandbag locations — local residents should ramp up their evacuation preparation and strategy within the next 120 hours.

“You guys got to start thinking about what you're going to do, where are you going to go, and when are you going to do it,” Fossa said.

“You've got to make sure you take that stuff with you because once we order an evacuation, you're not going to be allowed back into your house or wherever you live,” said Fossa, who spent nearly three decades with Pasco County Fire Rescue before retiring there as deputy chief.

When it comes to finding a safe place during ordered evacuations, Fossa said local residents need not go far.

Aside from staying at county-designated shelters, the emergency management director recommends first traveling to a family or friend's house more inland or in the north-central part of the state.

He advised against driving all the way out of state due to a hurricane's “cone of uncertainty,” or playing a “guessing game” on the range of possibilities the center of the storm could hit.

A storm targeted for a certain part of Florida just as easily could veer off to Georgia, Texas or somewhere else, Fossa said.

“You don't have to go hundreds of miles,” he said. Instead, he suggested, **“go 10 miles.”** Fossa also told the crowd that a “hurricane watch” isn't cause for immediate panic.

COMMENT INSERT—AND DO THE FEDERAL AGENCIES REMEMBER THE ARMY CORPS' TAMPA SECTION CHIEF CHUCK SCHNEPEL TELLING PASCO IN A 2013 LETTER, ALREADY ENTERED INTO THE ADMINISTRATIVE RECORD AND CITED IN A DIFFERENT CONTEXT, THAT HURRICANE EVACUATION WAS NOT AN ISSUE FOR THE ARMY CORPS AND WOULD NOT AFFECT THE DECISION TO GRANT OR DENY A PERMIT? HE STATED THAT “The designation of the prime purpose of the RRE as an evacuation route would not change the analysis of the RRE under the Guidelines.”

August 14, 2008

Regulatory Division

South Permits Branch
Tampa Permits Section
SAJ-1998-2682 (IP-MN)

Michele L. Baker, Chief Assistant County Administrator
West Pasco Government Center
7530 Little Road, Suite 340
New Port Richey, Florida 34654

Dear Ms. Baker:

Reference is made to your letter of May 9, 2008, responding to my letter of February 28, 2008. Both letters concern Department of the Army (DA) permit application SAJ-1998-2682 (IP-MN) submitted by the Pasco County BCC (County) to discharge fill in wetlands to construct an east-west roadway between State Roads 52 and 54 to be known as the Ridge Road Extension (RRE). Your letter specifically addressed the 10 items listed at the bottom of my February 28th letter. During our meeting on May 14, 2008, in the Jacksonville District Office, you were advised that the U.S. Army of Engineers (Corps) would provide a response to your letter.

The following are the responses by the Corps by item number in the letter. Our responses are in bold type.

8. Clarification on the project purpose for the RRE. The 2001 alternatives analysis does not list evacuation route as the prime purpose. The analysis indicated the purpose was to provide a road to move people and goods between US-19 and US-41. Evacuation route was listed further down the list of purposes for the RRE. **The information provided in your letter does not alter that determination and improvement of evacuation abilities during a storm or hurricane is only one of the purposes of the RRE but not the prime purpose. The majority of the evacuation shelters are located east of US-41 with most east of I-4. There are at least 6 shelters west of the proposed intersection of Moon Lake Road and the RRE. It appears the RRE would not appreciably improve access to the shelters to the east and would have no impact on the shelters west of the RRE. The designation**

of the prime purpose of the RRE as an evacuation route would not change the analysis of the RRE under the Guidelines.

If you have any questions regarding the application, please contact Mike Nowicki at the letterhead address or by telephone number at (904) 2322171.

Sincerely,

A handwritten signature in black ink that reads "Charles A. Schnepel". The signature is written in a cursive, flowing style.

Charles A. Schnepel, Chief
Tampa Section

EVIDENCE THAT THE APPLICANT'S PREFERRED MOD 7A WILL COST PASCO MUCH MORE (\$138,204,560-FOR BOTH PHASES) THAN MANY OF THE NON-RRE ALTERNATIVES, MAKING IT LESS LIKELY TO EVER ACHIEVE THE PROJECT PURPOSE TO GO EAST TO US 41.

THIS IS YET ANOTHER MISREPRESENTATION BY PASCO COUNTY TO THE ACOE SAYING THE COST TO PASCO TO PASCO IS \$89,970,668 IN 09/2019, WHEN THAT IS ONLY THE COST OF PHASE 1 AND DOES NOT ACHIEVE THE PROJECT PURPOSE.

COMMENT INSERT—PASCO HAS MAINTAINED THAT OTHER ALTERNATIVES TO THE RRE, THAT HAVE ALREADY BEEN DETERMINED TO BE PRACTICABLE (IN THE ACOE 08/08/2013 LETTER TO PASCO), INCLUDING STATE ROADS 54 AND 52 AND TOWER ROAD, PASCO HAS MAINTAINED WERE NOT ELIGIBLE TO BE THE LEDPA DUE TO NOT BEING ON PASCO'S COST AFFORDABLE PLAN. THAT OPINION WAS DISCOUNTED BY THE ACOE IN THAT 08/2013 LETTER. RECENTLY HOWEVER, PASCO HAS REVISED THEIR OPINION IN THEIR 09/2019 AA AND HAS DETERMINED THAT TOWER ROAD ALTERNATIVE # 10 TOWER ROAD IS INDEED ELIGIBLE TO BE PLACED ON THEIR COST AFFORDABLE PLAN, AS WAS ALTERNATIVE # 8 (SR 52 ADD 4 LANES) AND # 14 (SR 52 ADD 2 LANES & TOWER ROAD ADD 2 LANES). PASCO HAS IN EFFECT RETRACTED THEIR FORMER OBJECTIONS TO TOWER ROAD AND OTHER ALTERNATIVES BEING A LEDPA ON THE GROUNDS THEY WERE COST PROHIBITIVE.

COMMENT INSERT—A COST COMPARISON, USING PASCO’S OWN SUBMITTALS TO THE ACOE, OF THE ABOVE TRUE COST OF THE RRE WITH OTHER PRACTICABLE ALTERNATIVES GIVES THE FOLLOWING RESULTS:

**ALTERNATIVE MOD 7A-ARTERIAL
(CORRECTED FROM THE ERRONEOUS \$102,383,000)-----\$138,204,560**

ALTERNATIVE #8 – SR 52 ADD 4 LANES -----\$96,768,000

ALTERNATIVE # 10 – TOWER ROAD ADD 4 LANES -----\$68,752,000

ALTERNATIVE # 14 – SR 52 ADD 2 LANES & TOWER ROAD ADD 2 LANES -----\$82,876,000

COMMENT INSERT—IN ADDITION, THE BELOW FDOT WORK PROGRAM WEBSITE WITH REGARD TO ALTERNATIVES # 8 AND 14 INVOLVING WIDENING STATE ROAD 52 HAVE PARTICULAR SIGNIFICANCE WHEN CONSIDERING THE FDOT’S TENTATIVE 2021 THRU 2025 PLAN TO WIDEN SR 52 EAST OF US 41 FROM 2 TO 4 LANES FOR 5.21 MILES TO THE EHREN CUTOFF ON THE WAY TO 1-75. THAT WOULD BE A MUCH MORE EFFECTIVE E/W ARTERIAL ROADWAY FOR CENTRAL PASCO THAN ANY ROADWAY THAT DEAD ENDED AT US 41 (THE RRE).

https://www.d7wpph.com/wp-content/uploads/pdf/Tentative_Work_Program_Document_2021-2025.pdf



PAGE 115--PASCO

October 17, 2019

DRAFT Tentative Five-Year Work Program for FY 2021 through FY 2025 July 1, 2020 Through June 30, 2025 Florida Department of Transportation District Seven P

FPN 2563341

SR 52 (SCHRADER HWY) FM E OF US 41 (SR 45) TO EHREN CUT OFF 2

DESCRIPTION

ADD LANES & RECONSTRUCT

2 TO 4 LANES FPN: D

Total: 2024/25 47,505,541

COMMENT INSERT—THE CHART BELOW IS FROM PASCO’S 09/2019 AA SUBMITTAL. IT IS BLURRY AND A ZOOMING IN IS REQUIRED. THE ABOVE NUMBERS COME FROM THAT PASCO CHART.

**Addendum
to
Alternative Analysis
for
Ridge Road Extension**

PREPARED FOR:

Pasco County Engineering Services Department

PREPARED BY:

NV5, INC.

1713 South Kings Avenue

BRANDON, FLORIDA 33511

July 2019

September 2019 Update

PAGE 44 OF 90

Cost

In addition to those alternatives initially found to be within the County’s ability to fund, 2, 3, 4, and 5, Alternatives Mod7, Mod 7A, 8, 14 and 16 were determined to be within the County’s ability to fund.

Addendum
to
Alternative Analysis
for
Ridge Road Extension

PREPARED FOR:



Pasco County Engineering Services Department

PREPARED BY:

NV5, INC.
1713 South Kings Avenue
BRANDON, FLORIDA 33511

July 2019
September 2019 Update

REVISED Table 4-1: Pasco County Ridge Road Extension (Updated 10-16-15)
Expanded Summary Data¹, Alternatives Analysis

Alternative No.	Description	Improvement		Construction Time	Costs					Logistics	Cultural Resources				Wildlife Impacts		Direct Indirect Impacts to Wetlands (Linear Feet)	Number of Species by Level of Impact					
		Mileage	Average Road Width (Feet)		Costs to Pasco County ¹				Total Costs		Policy Consistency Approval ²	Impacts to Wetlands & Resources ³	Historic Structures (Feet)	Archaeological Resource Sites (Acres)	Direct Indirect	Other Indirect							
					Construction Costs (\$Million)	Wetland Costs (\$Million)	Mitigation Costs (\$Million)	Total Costs (\$Million)															
1	No Action	1.110	16.50	23.4	\$0	\$0	\$0	\$0	No	0	0	0	0	0	0	0	0	0	0	0	0		
2	4-Lane RHD	1.005	26.79	16.8	\$68,416,000	\$22,400,000	\$22,700,000	\$33,516,000	\$108,000,000	Yes	22	0	0	31.8	40.6	225.9	0	87.9	5	4	6	6	
3	4-Lane RHD	1.002	26.79	16.8	\$67,598,000	\$21,100,000	\$22,558,000	\$11,067,000	\$65,845,000	Yes	0	0	0	17.7	30.5	138.0	240.0	470	60.9	5	4	6	6
4	4-Lane RHD	1.002	26.79	16.8	\$67,598,000	\$22,600,000	\$23,000,000	\$19,000,000	\$22,000,000	Yes	16	0	0	18.5	30.1	140.7	278	67.6	5	4	6	6	
5	4-Lane RHD	1.002	26.79	16.8	\$68,587,000	\$22,600,000	\$23,600,000	\$19,500,000	\$80,533,000	Yes	0	0	0	19.8	42.3	207	245.9	470	61.3	5	4	6	6
6	4-Lane RHD (Revised)	1.002	26.79	16.8	\$123,288,000	\$35,000,000	\$22,700,000	\$198,688,000	\$198,688,000	Yes	0	0	0	13.1	40.3	27.7	239.9	470	61.9	5	10	5	0
7	4-Lane RHD (Revised) (Revised)	1.002	26.79	16.8	\$122,372,500	\$35,000,000	\$22,700,000	\$198,640,000	\$198,640,000	Yes	0	0	0	13.1	40.3	27.7	243.4	470	75.2	5	7	3	0
8	4-Lane RHD (Revised) (Revised)	1.002	26.79	16.8	\$98,541,000	\$30,000,000	\$22,800,000	\$132,263,000	\$132,263,000	Yes	0	0	0	15.1	40.3	28.6	245.9	470	60.1	5	4	6	6
9	4-Lane RHD (Revised) (Revised) (Revised)	1.000	21.88	16.8	\$98,541,000	\$30,000,000	\$22,800,000	\$132,263,000	\$132,263,000	Yes	0	0	0	15.1	40.3	28.6	245.9	470	60.1	5	4	6	6
10	SR 54 4-Lane Lane	1.073	16.85	19.3	\$96,258,000	\$34,500,000	\$23,800,000	\$138,765,000	\$137,265,000	No	28	0	0	13.1	43.9	2.9	117.4	120	5.2	5	8	5	2
11	SR 54 4-Lane Lane	1.005	21.31	17.1	\$129,187,000	\$37,785,000	\$23,800,000	\$217,227,000	\$217,227,000	No	22	1	8	3.6	3.6	1.7	150.5	0	1.2	5	12	2	0
12	4-Lane Tractor Rd	1.005	20.98	21.6	\$65,778,000	\$7,400,000	\$2,000,000	\$138,791,000	\$138,791,000	Yes	21	0	4	8.2	17.5	22.2	171.7	218	18.4	5	10	2	2
13	SR 54 4-Lane Lane	0.004	22.12	25.3	\$1,389,200,000	\$3,850,000	\$80,000	\$1,375,010,000	\$1,375,010,000	Yes	12	0	2	20.4	34.9	0.4	197.7	0	3.2	14	6	0	0
14	4-Lane Tractor Rd	1.003	26.79	20.0	\$153,045,000	\$9,615,000	\$1,400,000	\$163,060,000	\$163,060,000	No	06	0	0	4.1	18.1	19.4	280.2	120	12.2	5	9	3	2
15	SR 54 4-Lane Lane	1.049	20.95	20.4	\$153,045,000	\$9,615,000	\$1,400,000	\$163,060,000	\$163,060,000	No	09	0	0	13.2	37.7	1.5	280.0	120	5.9	4	9	9	1
16	4-Lane Tractor Rd	1.049	20.95	22.7	\$72,527,000	\$3,800,000	\$1,600,000	\$132,576,000	\$132,576,000	No	45	1	12	2.0	8.0	14.8	286.2	240	12.8	4	6	8	2
17	4-Lane RHD	1.005	26.84	16.8	\$75,348,000	\$2,194,000	\$3,158,000	\$38,840,000	\$119,690,000	Yes	21	1	10	14.6	17.4	12.6	381.2	275	60.9	5	4	6	5
18	4-Lane RHD	1.001	26.72	20.0	\$68,416,000	\$3,407,000	\$1,578,000	\$16,897,000	\$140,400,000	No	25	0	2	22.2	79.8	20.6	325.2	176	48.3	4	5	5	6
19	4-Lane RHD	1.002	21.88	16.8	\$150,665,000	\$2,880,000	\$1,770,000	\$155,315,000	\$174,750,000	No	14	1	0	9.2	47.9	16.6	322.1	155	45.4	5	4	6	5

- Additional and more detailed information is presented in Sections 3 and 4 of the 2015 Assessment Analysis and within this Addendum.
- Wildlife Values to Capacity reflects the study area response.
- See August 2015 addendum, Tables 4-1A, 4-1B, 4-1C, and 4-1D for breakdown of costs.
- Consistent with LRP, PDOT approval body, availability and survey.
- Wetland impacts include Wetlands, wetlands, and pine scrub, hardwood hammock, and scruboak.
- See 4.1.16 Alternatives Analysis, Table 4-1 in Attachment for wetland and wildlife species response.
- Director or partially elevated only within limits of Departmental Process.

Revised Page 10

COMMENT INSERT—PASCO’S MOST RECENT ALTERNATIVES ANALYSIS ADDENDUM, SENT TO THE ACOE ON 09/2019, HAD THE TOTAL COST OF THE RRE MOD 7A-ARTERIAL SO ERRONEOUS AS TO BE TOTALLY UNRELIABLE. PASCO REPORTED ON THAT SUBMITTAL A TOTAL COST (FOR THE ENTIRE RRE INCLUDING THE INTERCHANGE) OF MOD 7A-ARTERIAL WAS \$102,383,000 WHEN OTHER SUBMITTALS TO FEDERAL AGENCIES LIKE THE FEDERAL HIGHWAY ADMINISTRATION(FHWA) SHOW A COST OF \$153,259,560 IF PASCO CONSTRUCTS THE ENTIRE RRE, INCLUDING PHASE 2, IN THE 2019 – 2014 TIME PERIOD.

THAT IS A HUGE DIFFERENCE OF \$50,976,560

EVIDENCE FROM PASCO’S WEBSITES OF THE TRUE COST OF BOTH PHASES 1 AND 2 OF THE PREFERRED RRE IN THE 2000 – 2005 TIMEFRAME.

COMMENT INSERT—AS SEEN BELOW THE COST OF PHASE 1 OF THE PREFERRED RRE TO PASCO COUNTY, FOUND ON THEIR CURRENT OFFICIAL RRE WEBSITE, IS \$89,970,668.

<https://www.pascocountyfl.net/3302/Ridge-Road-Extension>

Project Details

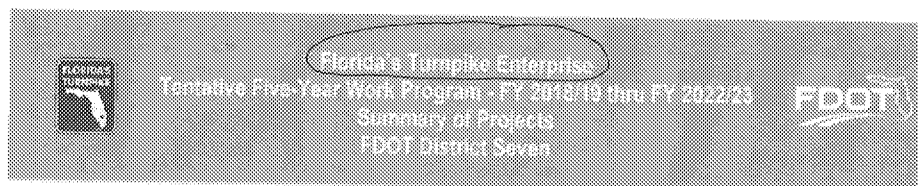
Work Type	New Roadway Construction
Phase	Design and Permitting
Project Limits	Phase 1: Moon Lake Suncoast Pkwy w / interchange Phase 2: Suncoast Parkway to US 41
Length	Phase 1: 22,200 feet / 4.2 miles Phase 2: 18,181 feet / 3.4 miles
Budgeted Prior Years	\$19,500,868

Total Expenditure to 3/7/2018	\$16,564,487
Land Acquisition (Fiscal Year)	2018
Land Acquisition Cost	\$2,600,000
Design of Interchange	\$1,000,000*
Construction (Fiscal Year)	2018
Construction	Phase 1: \$67,869,800
Cost	Phase 2: Not Funded
Total Project County Funding	\$89,970,668

*Note, this sum is to be reimbursed by FTE for the design of the Suncoast Parkway Interchange.

BELOW SHOWS THE COST OF THE FLORIDA TURNPIKE'S SUNCOAST PARKWAY INTERCHANGE TO THE FTE WILL BE \$15,055,000.

http://www.floridasturnpike.com/content/Work%20Program/FY-2018/WP%20Project%20Summary_D7_FINAL.pdf



Pasco County Projects

\$ 15,055,000



New interchange on the Suncoast Parkway / SR 580 at Ridge Road (MP 25)
FPN: 258958-1

The project constructs a new interchange on the Suncoast Parkway / SR 580 at Ridge Road. This is a partnership project with Florida's Turnpike Enterprise serving as a funding partner. A full interchange will be constructed, with access provided to/from the Suncoast Parkway / SR 580 in both the northbound and southbound directions.

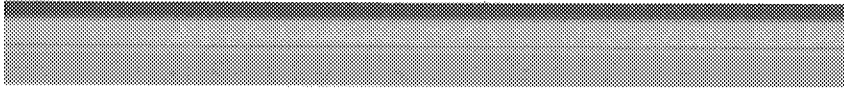
Phase	Fiscal Year					5 Year Total
	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	
PE	\$1,497,000	\$0	\$0	\$0	\$0	\$1,497,000
CST	\$12,568,000	\$1,058,000	\$0	\$0	\$0	\$13,626,000
Total	\$14,065,000	\$1,058,000	\$0	\$0	\$0	\$15,055,000

BELOW SHOWS THAT THE COST TO PASCO COUNTY OF PHASE 2, FROM THE SOON TO BE ADOPTED PASCO MPO'S 2045 LRTP, WILL BE \$48,233,892. THE READER WILL HAVE TO ZOOM IN TO SEE THAT CLEARLY.

<http://mobilitypasco.com/wp-content/uploads/2019/11/Public-Review-Summary-1.pdf>

2045 LRTP – Public Review Summary 4-10

Table 4-1: Roadway Project Cost and Revenues (2019–2045)



Zoom IN To see Pasco's 2045 LRTP showing The RRE Timing of Phase 2
for 2019 → 2024 AT A COST OF \$48,233,892

ADD FTE Interchange

15,055,000

ADD PASCO's Phase I from Pasco's
Official RRE website

+ 89,970,668

\$ 153,259,560

AND NOT THE
\$102,383,000 Pasco
reported To the ACOE below
in 09/2019

2045 LRTP - Public Review Summary

440

COMMENT INSERT—THE CHART ABOVE SHOWS THAT THE TOTAL COST TO ALL PARTIES (PASCO & THE FTE) FOR THE ENTIRE RRE 8.4-MILE PROJECT, BOTH PHASES, WILL BE \$153,259,560 AND NOT, AS PASCO TELLS THE ACOE IN 09/2019, \$103,383,000.

Line Item	Description	Assets & Liabilities		Receivables Due	Costs					Logistics	Sales & Marketing					Financial Impact			Other Notes	Project to Website Impact?	
		Assets			Costs						Sales & Marketing										
		Current	Future		Category	Sub-Category	Amount	Unit	Rate		Value	Unit	Rate	Value	Unit	Rate	Value	Unit			Rate
1	Item 1	1.10	1.20	1.30	1.40	1.50	1.60	1.70	1.80	1.90	2.00	2.10	2.20	2.30	2.40	2.50	2.60	2.70	2.80	2.90	3.00
2	Item 2	1.10	1.20	1.30	1.40	1.50	1.60	1.70	1.80	1.90	2.00	2.10	2.20	2.30	2.40	2.50	2.60	2.70	2.80	2.90	3.00
3	Item 3	1.10	1.20	1.30	1.40	1.50	1.60	1.70	1.80	1.90	2.00	2.10	2.20	2.30	2.40	2.50	2.60	2.70	2.80	2.90	3.00
4	Item 4	1.10	1.20	1.30	1.40	1.50	1.60	1.70	1.80	1.90	2.00	2.10	2.20	2.30	2.40	2.50	2.60	2.70	2.80	2.90	3.00
5	Item 5	1.10	1.20	1.30	1.40	1.50	1.60	1.70	1.80	1.90	2.00	2.10	2.20	2.30	2.40	2.50	2.60	2.70	2.80	2.90	3.00
6	Item 6	1.10	1.20	1.30	1.40	1.50	1.60	1.70	1.80	1.90	2.00	2.10	2.20	2.30	2.40	2.50	2.60	2.70	2.80	2.90	3.00
7	Item 7	1.10	1.20	1.30	1.40	1.50	1.60	1.70	1.80	1.90	2.00	2.10	2.20	2.30	2.40	2.50	2.60	2.70	2.80	2.90	3.00
8	Item 8	1.10	1.20	1.30	1.40	1.50	1.60	1.70	1.80	1.90	2.00	2.10	2.20	2.30	2.40	2.50	2.60	2.70	2.80	2.90	3.00
9	Item 9	1.10	1.20	1.30	1.40	1.50	1.60	1.70	1.80	1.90	2.00	2.10	2.20	2.30	2.40	2.50	2.60	2.70	2.80	2.90	3.00
10	Item 10	1.10	1.20	1.30	1.40	1.50	1.60	1.70	1.80	1.90	2.00	2.10	2.20	2.30	2.40	2.50	2.60	2.70	2.80	2.90	3.00
11	Item 11	1.10	1.20	1.30	1.40	1.50	1.60	1.70	1.80	1.90	2.00	2.10	2.20	2.30	2.40	2.50	2.60	2.70	2.80	2.90	3.00
12	Item 12	1.10	1.20	1.30	1.40	1.50	1.60	1.70	1.80	1.90	2.00	2.10	2.20	2.30	2.40	2.50	2.60	2.70	2.80	2.90	3.00
13	Item 13	1.10	1.20	1.30	1.40	1.50	1.60	1.70	1.80	1.90	2.00	2.10	2.20	2.30	2.40	2.50	2.60	2.70	2.80	2.90	3.00
14	Item 14	1.10	1.20	1.30	1.40	1.50	1.60	1.70	1.80	1.90	2.00	2.10	2.20	2.30	2.40	2.50	2.60	2.70	2.80	2.90	3.00
15	Item 15	1.10	1.20	1.30	1.40	1.50	1.60	1.70	1.80	1.90	2.00	2.10	2.20	2.30	2.40	2.50	2.60	2.70	2.80	2.90	3.00
16	Item 16	1.10	1.20	1.30	1.40	1.50	1.60	1.70	1.80	1.90	2.00	2.10	2.20	2.30	2.40	2.50	2.60	2.70	2.80	2.90	3.00
17	Item 17	1.10	1.20	1.30	1.40	1.50	1.60	1.70	1.80	1.90	2.00	2.10	2.20	2.30	2.40	2.50	2.60	2.70	2.80	2.90	3.00
18	Item 18	1.10	1.20	1.30	1.40	1.50	1.60	1.70	1.80	1.90	2.00	2.10	2.20	2.30	2.40	2.50	2.60	2.70	2.80	2.90	3.00
19	Item 19	1.10	1.20	1.30	1.40	1.50	1.60	1.70	1.80	1.90	2.00	2.10	2.20	2.30	2.40	2.50	2.60	2.70	2.80	2.90	3.00
20	Item 20	1.10	1.20	1.30	1.40																

~~~~~

Q155549012 2022 Change Order 19 for Service Agreement, Type 40, 000, Construction, Engineering, Safety, Security, Training, 1, 1, 2022

**IT IS IMPORTANT FOR THOSE IN THE LEGAL COMMUNITY AND IN THE FEDERAL AGENCIES TO BE FULLY AWARE OF THE POSITION OF THE FEDERAL COURTS ON THE MATTER OF FEDERAL AGENCY “DISCRETION” REGARDING INTERPRETATIONS OF THEIR GUIDELINES AND THE LAWS**

DETERMINED BY CONGRESS. THERE STILL EXISTS FEDERAL COURT DEFERENCE TO AGENCY DISCRETION WHEN INTERPRETING THEIR GUIDELINES BUT, AS THE ARTICLE BELOW EXPLAINS, AND AS CHIEF JUSTICE ROBERTS STATED, NOT WHEN ATTEMPTING TO MAKE OVERLY LIBERAL INTERPRETATIONS OF CONGRESSIONAL EDICTS LIKE THE CWA, NEPA, ESA APE, CEQ'S AND OTHER FEDERAL LAWS (CHEVRON). TO DO SO WOULD BE TO PLACE THE AGENCY ABOVE THE LAW OF THE LAND. THE ARTICLE EXPLAINS THIS RATHER CLEARLY, WITH REFERENCE TO THE U.S. SUPREME COURT (SCOTUS). IT IS APPROPRIATE TO BEGIN THIS SECTION WITH THAT, SINCE ALL FEDERAL COURTS ARE SUPERCEDED BY SCOTUS AND SCOTUS HAS THE FINAL SAY IN ALL MATTERS OF U.S. LAW.

AS STATED IN THE ARTICLE, SCOTUS & FEDERAL COURT DEFERENCE TO FEDERAL AGENCY INTERPRETATIONS HAVE BEEN INFLUENCED BY JUSTICE NEIL GORSUCH'S INFLUENCE REGARDING LIMITING SOME OF THAT DEFERENCE. CHIEF JUSTICE ROBERTS DISTINGUISHED BETWEEN "AUER" AND "CHEVRON" DEFERENCE, SAYING THAT THERE IS NO CHANGE REGARDING AN AGENCY'S INTERPRETATION, OR MISINTERPRETATION, OF A CONGRESSIONAL STATUTE "CHEVRON." AGENCIES THAT WOULD RELY ON SUPER-LIBERAL INTERPRETATIONS OF FEDERAL LAWS ENACTED BY CONGRESS (LIKE THE CLEAN WATER ACT & NEPA & ENDANGERED SPECIES ACT) AND IN EFFECT GO AGAINST THOSE LAWS AND VIOLATE THEM, HAD BETTER TREAD CAREFULLY IN SO DOING. SCOTUS IS NOT LIKELY TO LOOK ASKANCE AND APPROVE SUCH ACTIONS (VIOLATIONS). THAT WAS ENCOURAGING TO THE OBJECTORS OF THIS APPLICATION, SINCE THEY HAVE ENTERED INTO THE ADMINISTRATIVE RECORD COUNTLESS EXAMPLES OF HOW SUCH CONGRESSIONAL DECISIONS (LAWS) WOULD INDEED BE VIOLATED IF THE ACOE AND EPA ATTEMPTED TO RELY ON THAT "DEFERENCE," HOLD THEIR NOSES AND GRANT A 404 PERMIT THAT WENT AGAINST THE STRICT LEDPA REQUIREMENTS (LEAST ENVIRONMENTALLY DAMAGING PRACTICAABLE ALTERNATIVE—THE ONLY ALTERNATIVE THAT CAN RECEIVE A 404 WETLANDS FILL PERMIT—AND THERE ARE SEVERAL NON-RRE ALTERNATIVES FOR THIS PROJECT ALREADY ACCEPTED BY THE ACOE'S CHIEF OF REGULATORY IN JACKSONVILLE IN 2013).

CHIEF ROBERTS ALSO NOTED THAT THERE IS LITTLE DIFFERENCE BETWEEN THE SCOTUS MAJORITY AND GORSUCH ON THE "CHEVRON" DEFERENCE ISSUE. FOUR OF THE MEMBERS OF SCOTUS VOTED WITH GORSUCH. THE AGENCIES MUST STILL FOLLOW CONGRESSIONAL EDICTS AND ESTABLISHED LAWS AND THEIR OWN GUIDELINES, PERIOD. THE RED HIGHLIGHTED SEGMENTS SEEMED PARTICULARLY IMPORTANT TO US, AND THE 3 PURPLE HIGHLIGHTED AREAS WENT SPECIFICALLY TO THE ISSUE OF A FEDERAL AGENCY OPENLY VIOLATING A CONGRESSIONAL LAW BY ATTEMPTING TO GIVE TO MINOR, SUBJECTIVE AND NON-ENVIRONMENTAL ISSUES MORE WEIGHT AND IMPORTANCE AND ATTEMPT TO MINIMIZE THE IMPORTANCE OF THE ACTUAL LEAST (AS IN LEDPA) IMPACTFUL ALTERNATIVE IN ORDER TO "MAKE THE APPLICATION WORK" FOR THE APPLICANT. THAT WOULD BE A DIRECT VIOLATION OF FEDERAL LAWS (THE CWA & NEPA).

# Ballard Spahr LLP

## REGULATORY & ENFORCEMENT

## LITIGATION & COURT DECISIONS

### Consumer Finance Monitor

CFPB, Federal Agencies, State Agencies, and Attorneys General

## SCOTUS continues judicial deference to agency interpretations

By **Barbara S. Mishkin** on June 27, 2019

POSTED IN REGULATORY AND ENFORCEMENT

In a decision issued on Wednesday, the U.S. Supreme Court, in *Kisor v. Wilkie*, declined to overrule a line of cases instructing courts to defer to an agency's interpretation of its own regulation, a doctrine sometimes referred to as "Auer deference." The name derives from *Auer v. Robbins*, a 1997 U.S. Supreme Court decision in which the Court ruled that the Department of Labor's interpretation of its own regulation controlled **unless it was plainly erroneous or inconsistent with the regulation.**

James Kisor, the plaintiff in *Kisor v. Wilkie*, is a Vietnam War veteran who filed for benefits for post-traumatic-stress disorder. In 2006, the Department of Veterans Affairs agreed with Mr. Kisor that he suffered from PTSD, but refused to give him benefits dating back to 1983 as he had sought. In denying his claim, the VA relied on its interpretation of the term "relevant" in a VA regulation that addresses the VA's reconsideration of a claim. The regulation provides for reconsideration "if VA receives or associates with the claims file *relevant* official service department records

that existed and had not been associated with the claims file when the VA first decided the claim.” (emphasis added). The VA concluded that certain documents offered by Mr. Kisor in support of his claim were not “relevant” because they were not “outcome determinative.” The VA’s decision was affirmed by the Court of Appeals for Veterans Claims. Mr. Kisor then appealed to the U.S. Court of Appeals for the Federal Circuit, which deferred to the VA’s interpretation in affirming the lower court’s decision.

The opinion of the Court was written by Justice Kagan and joined in full by Justices Ginsburg, Breyer, and Sotomayor and joined in part by Chief Justice Roberts. All of the Justices concurred in the judgment vacating the judgment and remanding the case. Justice Gorsuch wrote a separate opinion joined in full by Justice Thomas and in part by Justices Kavanaugh and Alito, in which he concluded that the Court should have “abandon[ed] *Auer*.” Justice Kavanaugh also wrote his own separate opinion joined by Justice Alito in which he expressed agreement with a separate opinion written by Chief Justice Roberts. In that opinion, the Chief Justice “suggest[ed] that the distance between the majority and Justice Gorsuch is not as great as it may initially appear [because of] the prerequisites for, and the limitations on, *Auer* deference [established by the majority].”

It is important to note that all three of the separate opinions distinguished *Auer* deference from *Chevron* deference. *Chevron* addresses the deference a court should give to an agency’s regulation. In his separate opinion, Chief Justice Roberts, citing *Chevron*, stated that “issues surrounding judicial deference to agency interpretations of their own regulations are distinct from those raised in connection with judicial deference to agency interpretations of statutes enacted by Congress” and that he does not “regard the Court’s decision today to touch upon the latter question.” Justice Kavanaugh indicated that he agreed with the Chief Justice’s statement regarding *Chevron* and Justice Gorsuch, in addition to distinguishing *Chevron* from *Auer*, indicated that “there are serious questions, too, about whether [*Chevron* deference] comports with the [Administrative Procedure Act] and the Constitution.”

In the opinion of the Court, Justice Kagan stated that a court should only apply *Auer* deference after a “significant analysis of the underlying regulation.” First, deference should not be given unless a regulation is “genuinely ambiguous.” If there is no uncertainty, there is no reason for deference and “[t]he regulation then just means what it means—and the court must give it effect, as the court



would any law.” Second, if a regulation is genuinely ambiguous, the agency’s interpretation must also be reasonable for it to be given deference, which she called “a requirement an agency can fail.” Third, even if reasonable, to receive deference, the interpretation “must be one actually made by the agency,” meaning that “it must be the agency’s ‘authoritative’ or ‘official position,’ rather than any more *ad hoc* statement not reflecting the agency’s views.” In addition, the interpretation (1) “must in some way implicate [the agency’s] substantive expertise,” (2) “must reflect ‘fair and considered judgment’ (meaning that it is not a “merely ‘convenient litigation position’ or ‘*post hoc* rationalizatio[n]’ advanced’ to ‘defend past agency action against attack’”), and (3) cannot be “a new interpretation, whether or not introduced in litigation, that creates ‘unfair surprise’ to regulated parties.”

Applying these principles, the Court concluded that “a redo is necessary” in Mr. Kisor’s case because the Federal Circuit “jumped the gun in declaring the regulation ambiguous” and “assumed too fast that *Auer* deference should apply in the event of genuine ambiguity.”

The issuance of guidance by an agency without use of the APA’s notice-and-comment procedures has also met with criticism. A notable example is the CFPB’s indirect auto finance guidance which set forth the CFPB’s disparate impact theory of assignee liability for so-called auto dealer “markup” disparities. After the Government Accountability Office determined that the guidance was a “rule” within the scope of the Congressional Review Act (CRA), Congress used the CRA to override the guidance.

**COMMENT INSERT—THE ACOE’S GUIDELINES BELOW REQUIRE THAT THE ACOE SERIOUSLY CONSIDER IF: “...unresolved conflicts exist as to the use of a resource...” IN THE CASE OF THE PROPOSED RRE, THAT REFERS TO THE USE OF THE PUBLICALLY OWNED SERENOVA PRESERVE AND THE DETRIMENTAL EFFECTS OF A 4-LANE LIMITED ACCESS HIGH SPEED ROADWAY GOING THROUGH THE MIDDLE OF THAT RESOURCE. THE PUBLIC HAS A RIGHT, AS OWNERS OF THAT 6,500-ACRE PRESERVE, TO ENJOY THE PEACE AND TRANQUILITY AND BREATHE CLEAN, UNPOLLUTED AIR WHEN THEY USE THAT RESOURCE/PRESERVE. BOTH OF THOSE “RIGHTS-OF-OWNERSHIP” WILL BE COMPROMISED AND REDUCED DUE TO NOISE POLLUTION FROM LARGE SEMI TRUCKS, SPEEDING MOTORCYCLES AND EMERGENCY VEHICLE SIRENS. AND THE VEHICULAR POLLUTION FROM THOSE NOISY VEHICLES WILL ALSO BE A DETRIMENT TO THE PHYSICAL AND EMOTIONAL HEALTH OF THE PUBLIC WHO USE THAT PRESERVED RESOURCE AND HAVE TO BREATHE THAT POLLUTED AIR.**

**THE ACOE MUST ALSO CONSIDER THE “...detrimental effects the proposed work is likely to have on the private and public uses.” AGAIN, THE NOISE AND VEHICULAR POLLUTION TO BE INTRODUCED ON THAT PRESERVE WILL DEEFINITELY BE WHAT WAS DESCRIBED ABOVE AS “DETRIMENTAL EFFECTS.” ONCE AGAIN, THE GENERAL HEALTH OF THE PUBLIC WHO USE THAT RESOURCE CANNOT BE COMPROMISED IF THERE IS ANOTHER**

LESS ENVIRONMENTALLY DAMAGING ALTERNATIVE (LEDPA) THAT WILL PREVENT SUCH “DETRIMENTAL EFFECTS” FROM OCCURRING ON THAT PRESERVE. AND, AS STATED BEFORE, THERE ARE SEVERAL OF THOSE ALTERNATIVES. TOWER ROAD IS ONE SUCH ALTERNATIVE.

<https://www.nap.edu/read/10134/chapter/18>

## **Appendix G**

### **Army Corps of Engineers Standard Operating Procedures for the Regulatory Program**

#### **13. The Public Interest Determination.**

PAGES 254 & 255

The following general criteria of the public interest review must be considered in the evaluation of every permit application (33 CFR 320.4(a)(2)):

- The extent of the public and private need for the project.
- Where unresolved conflicts exist as to the use of a resource, whether there are practicable alternative locations or methods that may be used to accomplish the objective of the proposed project.
- The extent and permanence of the beneficial or detrimental effects the proposed work is likely to have on the private and public uses to which the project site is suited.

The decision whether to authorize or deny the permit application is determined by the outcome of this evaluation. The specific weight each factor is given is determined by its relevance to the particular proposal. It is important to remember that the Corps can perform an alternatives analysis, and must require compensatory mitigation, or other conditions to address environmental impacts for all permits...

**COMMENT INSERT—40 CFR § 230.10 CITED BELOW REQUIRES THAT THE ACOE MUST, ABOVE ALL OTHER FACTORS, CONSIDER ENVIRONMENTAL FACTORS FIRST. THE ACOE CANNOT DISMISS ALTERNATIVES THAT HAVE FEWER DAMAGING IMPACTS TO THE ENVIRONMENT BY ATTEMPTING TO RELEGATE TO A LOWER ORDER OF IMPORTANCE NON ENVIRONMENTAL AND SUBJECTIVE FACTORS LIKE “THREATS TO HUMAN SAFETY, IMPACTS TO NEIGHBORHOOD “COHESION” AND “LIMITING THE ENJOYMENT OF SUMMER SUNSETS,” ETC.**

<https://www.law.cornell.edu/cfr/text/40/230.10>

#### **§ 230.10 Restrictions on discharge.**

(a) Except as provided under section 404(b)(2), no discharge of dredged or fill material shall be permitted if there is a practicable alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem, so long as the alternative does not have other significant adverse environmental consequences.

**COMMENT INSERT**—THE BELOW MEMORANDUM BETWEEN THE ACOE AND EPA CLEARLY STATES THAT THERE CAN BE NO ATTEMPT BY EITHER ENTITY TO “PLAY DOWN” ADVERSE IMPACTS USING MITIGATION, BY STATING THERE WILL BE AN “OVERALL BENEFIT” TO THE ENVIRONMENT DUE TO THE FACT THAT THERE WILL BE EXCESS MITIGATION THAT WILL EXCEED IMPACTS. IMPACTS MUST BE ASSESSED AND COMPARED BEFORE ANY MITIGATION IS CONSIDERED, AND THE ALTERNATIVE WITH THE LEAST IMPACTS, THAT IS PRACTICABLE AND ACHIEVES THE PROJECT PURPOSE, IS THE LEDPA. IT IS THE ONLY ONE THAT CAN BE GRANTED A CWA 404 PERMIT BY THE ACOE.

NOTE THE RED AND PURPLE HIGHLIGHTED SECTIONS OF THE BELOW 1990 MOA THAT EXPLICITLY REQUIRE ONLY THE LEAST ENVIRONMENTALLY DAMAGING PRACTICABLE ALTERNATIVE CAN BE PERMITTED. THERE IS NO CHANCE ANY MEMBER OF THE FEDERAL JUDICIARY WILL NOT SEE THIS REQUIREMENT AND REMAND ANY GRANTED PERMIT FOR ANY ALTERNATIVE CONTAINING THE RRE THAT HAS BECOME, NOW IN 2019, THE MOST ENVIRONMENTALLY DAMAGING ALTERNATIVE, WITH OVER 40 ACRES OF DIRECT WETLAND IMPACTS, OVER 245 ACRES OF INDIRECT IMPACTS AND 205 ACRES OF CUMULATIVE IMPACTS. THAT IS APPROACHING A TOTAL OF 500 ACRES OF ADVERSE IMPACTS.

<https://www.epa.gov/cwa-404/memorandum-agreement-regarding-mitigation-under-cwa-section-404b1-guidelines-text>

## **Section 404 of the Clean Water Act**

# **Memorandum of Agreement regarding Mitigation under CWA Section 404(b)(1) Guidelines (Text) Between the Department of the Army and the Environmental Protection Agency**

*Portions of this MOA that concern the type and location of compensatory mitigation are superseded by the 2008 compensatory mitigation rulemaking*

- **Avoidance.**<sup>4</sup> Section 230.10(a) allows permit issuance for only the least environmentally damaging practicable alternative.<sup>5</sup> and
- 2) alternatives that do not involve special aquatic sites have less adverse impact on the aquatic environment. Compensatory mitigation may not be used as a method to reduce environmental impacts in the evaluation of the least environmentally damaging practicable alternatives for the purposes of requirements under Section 230.10(a).

- **III. OTHER PROCEDURES**

Functional values should be assessed by applying aquatic site assessment techniques generally recognized by experts in the field and/or the best professional judgment of federal and state agency representatives, provided such assessments fully consider ecological functions included in the Guidelines... a minimum of 1 to 1 acreage replacement may be used as a reasonable surrogate for no net loss of functions and values.

However... the ration may be less than 1 to 1 for areas where the functional values associated with the area being impacted are demonstrably low and the likelihood of success associated with the mitigation proposal is high.

COMMENT INSERT—THAT LAST STATEMENT ABOVE, REGARDING AREAS HAVING VERY LOW ENVIRONMENTAL FUNCTIONAL VALUES, DESCRIBES THE LOW-QUALITY WETLAND AND LISTED SPECIES HABITAT AREAS TO BE IMPACTED THAT EXIST NEAR ALREADY CONSTRUCTED ROADWAY ALTERNATIVES, INCLUDING THE TOWER DIRT FARMROAD. THOSE ALTERNATIVES ALL SUFFER FROM “EDGE EFFECTS.” CONVERSELY, THE WETLANDS AND LISTED SPECIES HABITATS ON THE RRE ROW ARE, IN MANY PLACES, PRISTINE.

COMMENT INSERT—THE BELOW 2014 ACOE GUIDELINES STATE THAT ONLY THE LEDPA CAN BE PERMITTED AND STRESSES THE FACT THAT THE “...USACE cannot issue permit for anything else.”

IT GOES ON TO SAY THAT THE ALTERNATIVES ANALYSIS “Can also include indirect, cumulative and secondary impacts.” IN THE CASE OF THE PROPOSED RRE, THOSE 3 TYPES OF ADVERSE IMPACTS COMPRISE AN APPLICANT-PREFERRED ALTERNATIVE THAT HAS THE MOST IMPACTS, AND NOT THE LEAST, NOW IN 2019. IT IS THEREFORE NOW THE MEDPA (MOST ENVIRONMENTALLY DAMAGING PRACTICABLE ALTERNATIVE).

**IT ALSO DIRECTS THAT "...404b1s require Corps only approve LEDPA."**

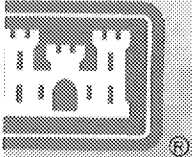
**THOSE GUIDELINES CANNOT BE MORE CLEARLY STATED.**

<file:///C:/Documents/LEDPA%20ONLY--ACOE%20SAYS---2014%20Jul%20Alternatives.pdf>

# Alternatives Analysis: Satisfying NEPA, Public Interest Review & 404b1

Chandler Peter  
Technical Specialist  
Regulatory Division

July 24, 2014



Alternatives Analysis: Satisfying NEPA. Public Interest Review & 404b1, Chandler Peter, Technical Specialist, Regulatory Division, July 24, 2014.

Page 4—**"Must demonstrate proposed action is LEDPA." AND "USACE cannot issue permit for anything else."**

Page 8—**"Waters of the U S impact Screen" "Can also include indirect, cumulative and secondary impacts."**

**COMMENT INSERT—40 CFR §230.12 EVIDENCED BELOW REFERS TO THE PROPOSED RRE AND ESPECIALLY TO THE 09/2019 ADDENDUM TO THE AA. THE APPLICANT RESUBMITTED THE AA FROM 10/2015 AND JUST ADDED THE MOD 7A-ARTERIAL, MAKING NO REVISIONS WHATSOEVER TO OTHER ALTERNATIVES THAT NOW WOULD HAVE FULL INTERCHANGES WHERE, FOR 21 YEARS, ONLY OVERPASSES WERE REPORTED (TOWER ROAD & THE PARKWAY), AND MADE NO REVISIONS TO WETLAND IMPACTS OF OTHER ALTERNATIVES THAT HAVE BEEN PERMITTED, CONSTRUCTED, MITIGATED FOR AND PORTIONS OF WHICH ARE NOW IN 2019 IN USE. AS SUCH, THAT 09/2019 INCOMPLETE AND INCORRECT AA RESULTS IN THE SITUATION DESCRIBED BELOW WHERE “There does not exist sufficient information to make a reasonable judgment as to whether the proposed discharge will comply with these Guidelines.”**

[https://gov.ecfr.io/cgi-bin/text-idx?SID=c6aac9801cd0070c4d15fa08c16e4177&mc=true&node=pt40.27.230&rgn=div5#se40.27.230\\_110](https://gov.ecfr.io/cgi-bin/text-idx?SID=c6aac9801cd0070c4d15fa08c16e4177&mc=true&node=pt40.27.230&rgn=div5#se40.27.230_110)

## **Subpart B—Compliance With the Guidelines**

### **§230.12 Findings of compliance or non-compliance with the restrictions on discharge.**

(iv) There does not exist sufficient information to make a reasonable judgment as to whether the proposed discharge will comply with these Guidelines.

**COMMENT INSERT—THE REQUIREMENT STATED BELOW FROM NEPA PROHIBITS WHAT PASCO COUNTY IS BASICALLY REQUESTING: THAT PHASE 1 OF THE PROPOSED RRE BE PERMITTED, WHILE THERE IS LITTLE TO NO “LIKELIHOOD” THAT PHASE 2 WILL EVER BE CONSTRUCTED WITHIN THE 5-YEAR VALIDITY OF A CWA 404 IP. AS SUCH, THE PROJECT PURPOSE TO GO EAST TO US 41 WILL NOT BE ACHIEVED. THE ENTIRE 8.4-MILE RRE IS A CONNECTED PROJECT, AS DESCRIBED BELOW BY NEPA, AND NEITHER PART HAS “INDEPENDENT UTILITY.” IT IS TRUE THAT THE ACOE CANNOT FORCE AN APPLICANT TO CONSTRUCT AN ENTIRE TWO-PHASE PROJECT, BUT NEITHER CAN THE ACOE PERMIT ESSENTIALLY WHAT IS LIKELY TO BE ONLY A ONE-PHASE PROJECT (PHASE 1) CONTAINED WITHIN A TWO-PHASE PROJECT APPLICATION, WITH CHANCES THAT ARE SLIM TO NONE OF EVER ACHIEVING THE ACOE-DEFINED PROJECT PURPOSE. TO DO SO WOULD BE TO DIRECTLY VIOLATE THE BELOW NEPA STATUTE. THE ADMINISTRATIVE RECORD CONTAINS A RECENT STATEMENT BY THE PASCO RRE PROJECT MANAGER SAM BENECK THAT, ½ MILE EAST OF THE SUNCOAST PARKWAY, THE RRE WILL BE BARRICADED AND IT WILL BE UP TO SOME UNKNOWN FUTURE ENTITY TO CONSTRUCT THE REST.**

Council on Environmental Quality Executive Office of the President REGULATIONS For Implementing The  
Procedural Provisions Of The NATIONAL ENVIRONMENTAL POLICY ACT

Reprint 40 CFR Parts 1500-1508 (2005)--Page 33—

§1508.25 Scope. “Scope” consists of the range of actions, alternatives, and impacts to be considered in an environmental impact statement. ...To determine the scope of environmental impact statements, agencies shall consider 3 types of actions, 3 types of alternatives, and 3 types of impacts. They include:

(a) Actions (other than unconnected single actions) which may be:

(1) **Connected actions**, which means that they are closely related and therefore should be discussed in the same impact statement. Actions are connected if they: (i) Automatically trigger other actions which may require environmental impact statements. (ii) Cannot or will not proceed unless other actions are taken previously or simultaneously. (iii) **Are interdependent parts of a larger action and depend on the larger action for their justification.**

(2) **Cumulative actions**, which when viewed with other proposed actions have cumulatively significant impacts and should therefore be discussed in the same impact statement.

AND

(b) Actions (other than unconnected single actions) which may be:

(1) **Connected actions**, which means that they are closely related and therefore should be discussed in the same impact statement. Actions are connected if they: (i) Automatically trigger other actions which may require environmental impact statements. (ii) Cannot or will not proceed unless other actions are taken previously or simultaneously. (iii) **Are interdependent parts of a larger action and depend on the larger action for their justification.**

**COMMENT INSERT—THE PROJECT PURPOSE REQUIRES BOTH CONNECTED PHASES TO GO TO US 41. IT IS ALL OR NOTHING. AND THE NEPA STATUTE BELOW APPEARS TO BE WRITTEN WITH THE PROPOSED RRE IN MIND. IT REFERS TO THE CONSIDERATION AND PRESERVATION OF AREAS HAVING “Unique characteristics of the geographic area such as...park lands...or ecologically critical areas.” THAT IS THE TEXTBOOK DEFINITION OF THE 6,500-ACRE SERENOVA PRESERVE.**

**AND “The degree to which the effects on the quality of the human environment are likely to be highly controversial.” THAT IS A PERFECT DESCRIPTION OF THIS PROPOSED PROJECT. AFTER 21 YEARS OF CONTINUOUS UNPAID VOLUNTEER COMMENTING, IT CANNOT GET MORE CONTROVERSIAL THAN THAT. THE CURRENT ACOE PROJECT MANAGER SHAYNE HAYES, VERIFIES THE “CONTROVERSIAL” NATURE OF THIS APPLICATION IN THE BELOW 08/29/2017 EMAIL TO A CITIZEN COMMENTER.**

**Hayes, Terry S (Shayne) CIV USARMY CESAJ (US)**

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**From:** Hayes, Terry S (Shayne) CIV USARMY CESAJ (US)  
**Sent:** Tuesday, August 29, 2017 1:14 PM  
**To:** (b)(6)@carrollwooddayschool.org  
**Subject:** Ridge Road Extension in Pasco County, FL

Hello Ms. Pelaez,

I was forwarded your information as a result of an inquiry that you submitted on the Jacksonville District Corps of Engineers website. Thank you for your interest in the Ridge Road Extension project that is under evaluation by the Corps. Unfortunately, due to the controversial nature of the project, I must decline an interview on this specific subject. However, you are welcome to contact me with general questions about the Corps' regulatory process. Good luck in your studies!

Respectfully,

Shayne Hayes  
Chief, Pensacola Permits Section  
Jacksonville District, Regulatory Division  
U.S. Army Corps of Engineers  
41 N Jefferson Street, Suite 301  
Pensacola, FL 32502  
850-433-8859 office

**AND "The degree to which the action may establish a precedent for future actions with significant effects." SEE COMMENT INSERT BELOW JUST AFTER THAT STATED REQUIREMENT.**

§1508.27 Significantly. "Significantly" as used in NEPA requires considerations of both context and intensity:

(b) Intensity. This refers to the severity of impact. Responsible officials must bear in mind that more than one agency may make decisions about partial aspects of a major action. The following should be considered in evaluating intensity:

- (1) Impacts that may be both beneficial and adverse. A significant effect may exist even if the federal agency believes that on balance the effect will be beneficial.
- (2) The degree to which the proposed action affects public health or safety.
- (3) Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.
- (4) The degree to which the effects on the quality of the human environment are likely to be highly controversial.
- (5) The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.
- (6) The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.



**COMMENT INSERT—THE ABOVE ITEM (b)6 WILL BE ESPECIALLY INTERESTING TO MEMBERS OF THE FEDERAL JUDICIARY DUE TO THE FACT THAT ANY GRANTING OF A PERMIT TO CONSTRUCT A 4-LANE ROADWAY ACROSS A 6,500-ACRE MITIGATION PARCEL (THE SERENOVA PRESERVE—SET ASIDE AS MITIGATION FOR OVER 200 ACRES OF WETLAND IMPACTS FROM A FORMER ROADWAY, THE SUNCOAST PARKWAY) WILL SET A PRECEDENT FOR FUTURE VIOLATIONS OF SUCH CONSERVATION EASEMENT AND MITIGATION SET ASIDES TO ALSO BE SO VIOLATED.**

**COMMENT INSERT—THE INSERT BELOW SUPPORTS THE FORT WORTH ACOE DISTRICT'S OPINION, AND THEIR INTERPRETATION OF FEDERAL LAW REQUIREMENTS. THEY SAY THAT IF SEVERAL ALTERNATIVES DEEMED PRACTICABLE STILL REMAIN--THEY SHOULD BE PUT ON AN "ENVIRONMENTAL FACTORS ONLY" MATRIX. SO THAT MEANS THEY THEN, AT THAT POINT, MUST DISREGARD ALL OTHER NON-ENVIRONMENTAL FACTORS LIKE EVACUATION, MORE TRAFFIC FLOW, SAFETY TO HUMANS--ETC. THE MOD 7A-ARTERIAL WOULD NOT EVEN BE CLOSE TO OTHERS ON SUCH A MATRIX WITH REGARD TO HAVING FEWER ADVERSE IMPACTS.**

**AND IT IS REQUIRED BELOW THAT ALL ALTERNATIVES BE ASSESSED USING THE SAME ENVIRONMENTAL IMPACT ANALYSIS PROCESS. BUT ONLY THE APPLICANT'S PREFERRED MOD 7A HAS BEEN ANALYZED IN SUCH A COMPLETE MANNER, WITH THE UMAM FUNCTIONAL UNIT LOSS DETERMINED (ALTHOUGH TO DATE WE HAVE NEVER SEEN THE TOTAL UMAM UNIT LOSS NUMBERS). NO OTHER PRACTICABLE ALTERNATIVES HAVE BEEN SO ANALYZED. SO HOW CAN A LEDPA DECISION BE MADE WHEN ONLY THE APPLIANT-PREFERRD ALTERNATIVE HAS HAD THAT REQUIRED ANALYSIS? AND THAT WAS DONE ONLY FOR PHASE 1 AND PART OF PHASE 2, SINCE ACCESS FOR GROUND-TRUTHED SURVEYS HAS BEEN DENIED BY THE LANDOWNER FOR A LARGE PORTION OF PHASE 2. EVEN THAT REQUIRED THOROUGH ANALYSIS FOR THE RRE HAS NOT BEEN DONE. THE ADMINSTRATIVE RECORD SHOWS THE APPLICANT'S CONSULTANT, DAWSON, TELLING PASCO THAT SUCH A COMPLETE ANALYSIS MUST BE DONE AND, WITHOUT ACCESS, COULD NOT BE ACCOMPLISHED, AND THAT WOULD EVENTUALLY POSE A SERIOUS PROBLEM FOR PASCO.**

**THIS IS YET ANOTHER REASON WHY AN EIS MUST BE REQUIRED BY THE ACOE, SO THAT ALL PRACTICABLE ALTERNATIVES, AND THERE ARE A NUMBER OF THEM ALREADY DETERMINED BY THE ACOE, CAN BE ASSESSED IN THE SAME MANNER AND TO THE SAME EXTENT, SO THAT A TRUE AND VALID COMPARISON CAN BE MADE AND THE TRUE LEDPA BE DETERMINED.**

[https://www.swf.usace.army.mil/Portals/47/docs/regulatory/Handouts/Preparing\\_An\\_Alternatives\\_%20Analysis.FINAL.pdf](https://www.swf.usace.army.mil/Portals/47/docs/regulatory/Handouts/Preparing_An_Alternatives_%20Analysis.FINAL.pdf)

#### **Step 4: Identify the Least Environmentally Damaging Alternative**

All alternatives making it to this step are practicable. Therefore, a comparison and determination of which is the least damaging is required. The Guidelines require that only the LEDPA can be authorized.

Using the same numbering system from the step above, identify the impacts to the aquatic ecosystem for each remaining practicable alternate site and option. Because the Guidelines include the consideration as to whether the LEPDA results in "other significant adverse environmental consequences" to other natural ecosystem components, those other natural environmental factors and the significant effects to them can also be discussed as well. For each remaining site, the narrative should include the following information:

- describe the direct, indirect, and cumulative impacts (beneficial or adverse) to the aquatic ecosystem (WOUS) associated with each of the remaining alternatives;
- 
- b. identify, specify and quantify the impacts to the aquatic ecosystem. Rather than stating that "Alternative A would result in a large impact to low quality wetlands and ditches that are sparsely vegetated and impact some wildlife" use "Alternative A would result in the discharge of fill material into 2.1 acres of modified riverine wet meadow wetland and realignment and filling of 1.2 acres of channelized intermittent stream that contains scattered emergent wetland vegetation."
- c. describe the significant adverse environmental impacts associated with each of the remaining alternatives on other natural ecosystem features and how the determination of significant was made.
- d. in order to ensure an appropriate and meaningful comparison of alternatives in relation to their proposed and predicted impacts, equivalent methods and level of detail are required for all alternatives<sup>11</sup> at similar levels in the screening process. For example, if detailed studies on hydrologic effects are presented for one the alternatives carried forward in an analysis, but not others, the analysis would to be supplemented with the same type and level of data and information for the other options.

2. If multiple practicable alternatives remain, and/or many natural environmental factors are involved that would be significantly impacted, **another matrix that contains only environmental parameters (e.g., wetland functional units; Federal and/or state listed species; high functioning/value upland habitat, floodplains, and plant communities; air quality) can be used to assist in illustrating the proposed LEDPA.** Emphasis should be placed on impacts to the aquatic environment through acreage and functional unit loss of wetlands or other WOTUS that would be affected or eliminated by each alternative. An example matrix is below.

10- 40 CFR 230.5 and February 6, 1990 Memorandum of Agreement Between the Environmental Protection Agency and the Department of the Army Concerning the Determination of Mitigation Under the Clean Water Act Section 404(b)(1) Guidelines

Version 1.0, prepared by Fort Worth District Regulatory Division, November 2014

**COMMENT INSERT—THE ACOE PROVIDED A SAMPLE CHART EXPLAINING HOW THE LEDPA IS DETERMINED. WE COPIED THAT CHART BELOW, AND THEN FOLLOWED THAT WITH A SIMILAR CHART COMPARING THE RRE WITH THE TOWER ROAD ALTERNATIVE. IT IS CLEAR THAT, USING THAT ACOE CHART PROCEDURE METHOD, THE RRE IS SIMPLY, WHEN COMPARED TO THE TOWER ROAD ALTERNATIVE, NOT THE LEDPA.**

[https://www.saj.usace.army.mil/Portals/44/docs/regulatory/News/4\\_Alternatives%20Analysis.pdf](https://www.saj.usace.army.mil/Portals/44/docs/regulatory/News/4_Alternatives%20Analysis.pdf)

#### ALTERNATIVES ANALYSIS

PG 35

LEDPA Consider evaluating many environmental/relevant factors, such as: Wetland impacts Federally listed threatened or endangered species High value upland habitat Historic properties Migratory birds Emphasis should be placed on impacts to the aquatic environment through functional unit loss of wetlands or other WOTUS that would be impacted or eliminated by each alternative.

PG 36

#### LEDPA

| Environmental Factors                                           | Alternative 1: Applicant's Preferred Alternative | Alternative 2 |
|-----------------------------------------------------------------|--------------------------------------------------|---------------|
| Wetland Impacts (acres)                                         | 2.0                                              | 6.0           |
| Loss in Wetland Function<br>(UMAM Functional Units)             | 1.4                                              | 3.9           |
| Impacts to Federally Listed<br>Threatened or Endangered Species | No                                               | No            |
| Impacts to Migratory Birds                                      | No                                               | Yes           |
| LEDPA                                                           | Yes                                              | No            |

**COMMENT INSERT—WE USED THE ABOVE ACOE EXAMPLE TO DETERMINE THE LEDPA, WHERE THE RRE MOD 7A AND 4-LANE TOWER ROAD ALTERNATIVE # 10 ARE COMPARED. AS PREVIOUSLY STATED, THERE ARE OTHER ALTERNATIVES IN ADDITION TO TOWER ROAD THAT**

WERE DETERMINED BY REGULATORY CHIEF DONALD KINARD AND DEPUTY CHIEF TORI WHITE IN 08/08/2013 TO BE “PRACTICABLE” AND THEREFORE QUALIFY TO BE EXAMINED FURTHER BY THE ACOE TO COMPARE TOTAL DIRECT, INDIRECT/SECONDARY AND CUMULATIVE IMPACTS TO DETERMINE THE LEDPA NOW IN LATE 2019. WE CONCENTRATED ONLY ON THE TOWER ROAD ALTERNATIVE.

IN ALMOST EVERY ENVIRONMENTAL IMPACT CATEGORY ON THE BELOW CHART, THE PROPOSED MOD 7A HAS THE MOST IMPACTS, NOT THE LEAST.

#### LEDPA

| Environmental Factors                                           | Alternative Mod 7A<br>Applicant’s Preferred Alternative                                      | Alternative # 10<br>4-lane Tower Road |
|-----------------------------------------------------------------|----------------------------------------------------------------------------------------------|---------------------------------------|
| Wetland Impacts (acres)<br>on 10/2015 Alt. Analysis             | 28.5                                                                                         | 22.2                                  |
| Wetland Impacts (acres)<br>on the 09/2018 Public Notice         | 37.38 (Plus 3 additional<br>acres for the FTE Interchange<br>wildlife fencing= over 40 acres | No Change                             |
| Indirect (Secondary) Impacts<br>(acres)                         | 243.3                                                                                        | 171.7                                 |
| Cumulative Impacts<br>(acres)                                   | 205 as of June 2019<br>Cumulative Impacts Analysis                                           |                                       |
| Loss in Wetland Function<br>(UMAM Functional Units)             | ?                                                                                            | ?                                     |
| Impacts to Federally Listed<br>Threatened or Endangered Species | Yes (E I Snake,<br>Woodstork, Scrub Jay,<br>Red Cockated Woodpecker                          | Yes (E I Snake<br>& Woodstork)        |
| Impacts to Migratory Birds                                      | No                                                                                           | No                                    |
| LEDPA                                                           | No                                                                                           | Yes                                   |

**COMMENT INSERT— THE ACOE GUIDELINES BELOW STATE SIMPLY THAT THE FINAL STEP IN MAKING AA PERMIT DECISION IS TO ASK:**

**IS APPLICANT’S PROPOSED PROJECT THE LEAST ENVIRONMENTALLY DAMAGING PRACTICABLE ALTERNATIVE (LEDPA)?**

**IF NO THEN PERMIT DENIAL – PROJECT DOES NOT COMPLY WITH 40 CFR 230.10**

**IT DOES NOT GET ANY SIMPLER THAN THAT. THE CFR CITED ABOVE, WHICH IS A CONGRESSIONAL DETERMINATION AND THE LAW OF THE LAND, REQUIRES THAT THE ABOVE ACTION BE TAKEN IF THE APPLICANT’S PREFERRED ALTERNATIVE RECEIVES A “NO” TO THAT ABOVE QUESTION.**

<https://usace.contentdm.oclc.org/digital/collection/p16021coll7/id/2802/>

### **Alternatives Analysis Framework April 18, 2016**

The U.S. Army Corps of Engineers (Corps) federal permit program requires all applicants for a Department of the Army (DA) permit to avoid and minimize impacts to waters of the U.S. Under the National Environmental Policy Act<sup>1</sup> (NEPA) and the Clean Water Act Section 404 (b)(1) Guidelines<sup>2</sup> (Guidelines), the Corps is required to evaluate alternatives to a proposed project.

**The alternatives analysis must be a thorough and objective evaluation of alternatives.**

Conclusion

**When conducted properly, an alternatives analysis is a systematic and objective approach to the evaluation of project alternatives**

ALTERNATIVES ANALYSIS FRAMEWORK

PHASE 5 LEDPA IDENTIFICATION STEP 11

**IS APPLICANT’S PROPOSED PROJECT THE LEAST ENVIRONMENTALLY DAMAGING PRACTICABLE ALTERNATIVE (LEDPA)?**

**IF NO THEN PERMIT DENIAL – PROJECT DOES NOT COMPLY WITH 40 CFR 230.10**

**CONCLUSION OF COMMENT # 34—AFTER THE EXTENSIVE AMOUNT OF THE EVIDENCE PRESENTED HERE, REGARDING ALL OF THE VIOLATIONS OF FEDERAL LAWS AND AGENCY GUIDELINES ANY GRANTING OF A CWA 404 PERMIT BY THE ACOE WOULD ENTAIL, IT WOULD BEHOOVE THE ACOE TO ERR ON THE SIDE OF LEGAL CAUTION AND DO AS FORMER ACOE RRE PROJECT MANAGER MIKE NOWICKI STATED OVER AND OVER, DURING HIS 10-YEAR TENURE FROM 2000 TO 2010, AND REQUIRE THAT THIS PARTICULAR APPLICANT PASCO COUNTY, WITH ITS LONG HISTORY OF SUBMITTING INCOMPLETE, ERRONEOUS AND MISLEADING DATA TO THE ACOE, THAT THEY “CROSS ALL OF THEIR “T’s” AND DOT ALL OF THEIR “I’s” WITH REGARD TO EVERY POSSIBLE ASPECT OF THIS APPLICATION THAT MAY BE REVIEWED BY THE FEDERAL JUDICIARY.**

**TO DO ANY LESS WOULD THROW “CAUTION TO THE WIND,” AND GIVE ENVIRONMENTAL ATTORNEYS A “DREAM COME TRUE.”**

**RESPECTFULLY SUBMITTED,**

Dan & Sara Rametta  
Richard Sommerville  
Save Our Serenova  
Citizens For Sanity.Com,Inc.  
& The Commenters Group

cc: Brigadier General Diana M Holland, Commander, South Atlantic Division  
Clif Payne, Chief, Special Projects and Enforcement Branch  
Shayne Hayes, Project Manager  
Joshua R. Holmes, Principal Assistant District Counsel for Regulatory  
Christina Storz, Assistant District Counsel  
Cynthia F. Van Der Wiele, Ph.D, USEPA, Region 4  
Annie Dziergowski, USFWS Project Consultation Supervisor  
Jacob.A.Siegrist, Regulatory Appeals Review Officer  
Edgar.W.Garcia, Project Reviewer

# **APPENDIX # 1**

## **STARKEY RANCH MPUD'S TOWER ROAD (RANGELAND BLVD.) INFO:**

**COMMENT INSERT—THIS IS EVIDENCE THAT THE STARKEY RANCH MPUD BEGAN CONSTRUCTION OF TOWER ROAD IN 2014 UNDER ACOE IP PERMIT SAJ-2005-05294 (TEH). PHASE 3, THE EASTERNMOST PHASE, BEGAN CONSTRUCTION IN 2016. A RECENT 10/2019 DRIVE ON THIS 3.5-MILE PROJECT VERIFIED THAT IT IS COMPLETED AND IN USE FROM THE WESTERN BOUNDARY AT ITS INTERSECTION WITH STARKEY ROAD, UP TO THE EASTERN BOUNDARY OF THE PUBLIX PARKING LOT, JUST EAST OF GUNN HIGHWAY, AND IS ALMOST COMPLETE TO THE FAR EASTERN BOUNDARY OF ITS PERMITTED LENGTH.**

[RTF]Public Facilities Report - TSR CDD

<https://tsrcdd.com> > wp-content > uploads > 2019/02 > public-facilities-repor...

Sep 30, 2016 - More detailed permit information is provided in the "Permit Status" .... to avoid impacting a US Army Corps of Engineers' jurisdictional wetland area. ... As required by the Starkey Ranch MPUD conditions, Town Avenue will ..

## **Public Facilities Report**

**TSR**

**Community Development  
District**

**September 30, 2016**

By: Governmental Management  
Services-Central Florida, LLC District  
Manager  
135 West Central Boulevard, Suite 320  
Orlando, Florida 32801

Table of Contents

**Exhibit A**

**Engineer's Report**

Exhibit A

**TSR**

**COMMUNITY  
DEVELOPMENT DISTRICT  
PRELIMINARY MASTER  
ENGINEER'S REPORT**

**CAPITAL IMPROVEMENT PLAN**

*Prepared for:*

BOARD OF SUPERVISORS

TSR Community Development District

*Prepared by:*

**HEIDT**

-- DESIGN --



August 13, 2014

## INFRASTRUCTURE CAPITAL IMPROVEMENTS

Page 6

### MASTER ROADS AND STREETS

#### Rangeland Boulevard:

Rangeland Boulevard is a County collector road intended to serve as a parallel facility to carry some of the traffic that would otherwise travel on S.R. 54, which is located to the south of the Starkey Ranch community. Rangeland Boulevard will run through the entire Starkey Ranch community; it will be the primary east-west collector road through the development allowing residents to travel to areas beyond the District boundaries. Future phases of Rangeland Boulevard will extend beyond the District limits and connect to other County collector roads adjacent to the Starkey Ranch community. The western extension of Rangeland Boulevard (outside the District) will connect to an existing, offsite collector road named Starkey Boulevard, which bounds the Starkey Ranch community on the west. The eastern extension of Rangeland Boulevard (outside the District) will terminate near the southeastern limits of the Starkey Ranch property. The continuation of Rangeland Boulevard to the east of Starkey Ranch will be known as Tower Road. The future, offsite extension of Tower Road will be the County's responsibility.

*T<sup>S</sup>R CDD Preliminary Master Engineer's Report*

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The proposed cross-section within the District consists of a 142-foot wide right-of-way with four lanes of pavement and two bike lanes divided by a central median. The District may elect to fund all the improvements within the Rangeland Blvd Right-of-Way, which include roadways, sidewalks, bike paths, water mains, sewer lines, storm sewer system, landscaping and hardscaping, and the cost

of undergrounding utility lines (electrical, communications, etc;). Construction Plans for the improvements were approved by Pasco County in June 2014 and construction commenced and is in progress at the time of preparation of this Engineer's Report. The portion of Rangeland Boulevard lying within Village 1, which consists of 5,247 linear feet of the .roughly 12,100 linear foot total, is approved for construction. Final completion and turnover to Pasco County of the Phase I segment (approximately 1,120 linear feet) is anticipated by first quarter 2015. Construction of Rangeland Boulevard Phase 2, which consists of 730 linear feet (located to the west of the Phase 1 segment, up to and including the roundabout at Long Spur), is expected to begin in 2015, with final completion and acceptance by Pasco County to follow. The construction of Rangeland Boulevard Phase 3 (roughly 3,397 linear feet), which is located to the east of the Phase 1 section of Rangeland Blvd., is anticipated to start in 2016 or later.

#### **Wetland Mitigation:**

A comprehensive wetland compensation plan is proposed to mitigate for unavoidable wetland impacts within the Starkey Ranch project. The proposed wetland mitigation is being undertaken in accordance with the requirements and conditions of the SWFWMD and USACOE permit obligations. Components of the mitigation plan are summarized below:

##### **Environmental Impact Compensation Plan:**

The proposed wetland impacts are being compensated for by creating wetlands in mitigation areas located within the District.

Numerous SWFWMD and U.S. Army Corps of Engineers (USCOE) jurisdictional wetlands are being preserved on the site.

#### **PERMIT STATUS**

The required infrastructure improvements for the initial phases of construction of Starkey Ranch project are contained in the following construction plans:

A. Starkey Ranch Village 1 (Central Neighborhood) Construction Plans

While the project is \_expected to be constructed in multiple phases, the USACOE and the Incidental Take Permit contemplate all phases of development at once.

The permit status for the Starkey Ranch development plans is as follows:

**PERMIT**

- L. SWFWMD Site Conditions Assessment Permit (SCAP)
- I. SWFWMD Environmental Resource .Permit Village 1 Mass Grading
- II. Pasco County Preliminary Plan/Stormwater Plan/ Construction Plan Simultaneous Submittal
- III. USACOE Individual Permit # SAJ-2005-05294 (TEH)
- IV. Pasco County Zoning (MPUD) Amendment #7078
- V. Florida Fish and Wildlife Commission Gopher Tortoise Conservation Permit

**STATUS**

Approved Approved

Approved Pending Approved

Approved

**Pending Permit Issuance**

The remainder of the project's infrastructure within the District is in the planning and/or design process. We are of the opinion that all permits that are not heretofore issued, and which are necessary to effect the improvements described herein, will be obtained during the ordinary course of development.

Table 2 - District Engineer's Opinion of Cost(All Costs in 2014 Dollars)

| <b>Item</b>                                 | <b>Estimated Cost</b> |
|---------------------------------------------|-----------------------|
| Stormwater Management, Earthwork & Drainage | \$ 7,900,000          |
| Master Roadway Systems                      | \$ 21,973,080         |

## **APPENDIX # 2**

**EVIDENCE ALREADY ADMITTED INTO THE ADMINISTRATIVE RECORD THAT PASCO HAS APPROVED MUCH MORE SEVERE IMPACTS TO RESIDENCES, BUSINESSES AND NEIGHBORHOOD “COHESION” IN PAST PROJECTS (ADDING 4 LANES TO STATE ROAD 54 & THE CHANCEY ROAD PROJECT). THIS RENDERS PASCO’S OBJECTIONS TO THE 20 RESIDENTIAL IMPACTS, WITH 12 RELOCATIONS FOR TOWER ROAD, MEANINGLESS.**

**COMMENT INSERT—ALL OF THE EVIDENCE BELOW HAS ALREADY BEEN SUBMITTED IN PAST COMMENTS. IT IS INCLUDED HERE FOR THE CONVENIENCE OF THE READER SO HE/SHE DOES NOT HAVE TO RESEARCH THOSE PAST COMMENTS IN THE ADMINISTRATIVE RECORD.**

**1) PASCO’S PAST ROW PARCEL IMPACTS AND RELOCATIONS TO WIDEN SR 54 IN WESLEY CHAPEL EAST OF I-75 FOR 3.4 MILES IN 2010 – 2012 IMPACTED 110 PARCELS, AND ROW COSTS ALONE WERE \$72 MILLION.**

**PASCO HAD NO PROBLEM PAYING \$72 MILLION FOR 110 PARCELS (INCLUDING 2 GAS STATIONS WITH UNDERGROUND TANK REMOVALS) IN 2010 - 2012 TO WIDEN SR 54 EAST OF I-75 FROM 2 TO 6 LANES IN WESLEY CHAPEL FOR 3.4 MILES. PASCO CANNOT NOW SAY THAT THE 20 IMPACTED AND 12 RELOCATED PARCELS NEEDED FOR ALTERNATIVE # 10 ARE LOGISTICAL BARRIERS THAT MAKE ANY ALTERNATIVE CONTAINING THE TOWER ROAD OPTION IMPRACTICABLE, THEREBY DISQUALIFYING THOSE ALTERNATIVES, INCLUDING THE 4-LANE TOWER ROAD ALT. # 10, FROM BEING THE LEDPA.**

**EXAMPLE # 1---Pasco's funding to construct 4 additional lanes on SR 54 in 2010 – 2012.**

The ACOE must consider past behaviors on the part of the applicant. The applicant cannot maintain that to construct a 4-lane Tower Road (Alt. # 10) for 11 miles and impact 21 parcels for a ROW cost of \$ 7.4 million presents insurmountable “logistical obstacles” while they have a history in 2010 – 2012 of adding 4 lanes to SR 54 east of I-75 for 3.4 miles and impacting 110 parcels at a ROW cost of \$ 72 million.

Such an attempt on the part of the applicant exposes two facts:

- 1) They must think the ACOE is unaware of that past 4-lane addition to SR 54 for a total project cost of \$101 million.
- 2) They are fully aware that their preferred Mod 7 has more direct wetland impacts (28.5 acres vs 10.2 acres) and will cost them 31 % more (\$89.9 million vs now \$58.5 million) than Alt. # 10.

And the fact that they had no problem paying \$72 million for 110 parcels (including 2 gas stations with underground tank removals) in 2010 to widen SR 54 east of I-75 from 2 to 6 lanes in Wesley Chapel for 3.4 miles establishes a precedent. If they did that in the past, they cannot say they cannot do it now for 1/10th of the parcels needed for Tower Road Alternative # 10 and at less than ½ of the cost. Those 12 impacted parcels and relocations never actually were logistical barriers that would disqualify Tower Road (Alt. # 10) from being the LEDPA, as Pasco maintains.

**COMMENT INSERT—MORE EVIDENCE VERIFYING PASCO'S PAST EXTENSIVE RESIDENTIAL IMPACTS FOR PROJECT THEY DESIRED.**

**ABBREVIATED EVIDENCE OF THE NATURE AND COSTS OF THAT 2010 – 2012 4-LANE ADDITION TO STATE ROAD 54 EAST OF I-75 IN ASCENDING DATE ORDER.**

**<https://www.google.com/#q=state+road+54+widened+to+6+lanes+in+wesley+chapel+relocations>**

## **SR 54 widening in Wesley Chapel to ease maddening jams**

In Print: Thursday, March 18, 2010

At a price tag of approximately \$100 million, the county is about to widen State Road 54 from Interstate 75 east to Curley

Road. County Administrator John Gallagher called it monumental. County engineer James Widman labeled it the worst traffic problem in the county.

The construction cost is listed at \$28.1 million. The county spent roughly \$70 million to obtain right of way in the heavily developed area.

<http://www.tbo.com/pasco-county/sr--widening-to-begin-65585>

### **S.R. 54 widening to begin**

Kevin Wiatrowski [kwiatrowski@tampatrib.com](mailto:kwiatrowski@tampatrib.com)

Published: March 19, 2010

Updated: March 20, 2013 at 05:34 PM

WESLEY CHAPEL - The widening of State Road 54, Pasco County's busiest east-west thoroughfare, officially will begin in 10 days.

County engineer Jim Widman announced the date Tuesday as county commissioners formally hired Pinellas County-based Pepper Contracting Services to expand S.R. 54 from two lanes to six between Interstate 75 and Curley Road.

The widening has become one of the most expensive road projects Pasco County has undertaken. That's largely because of right-of-way costs, which soared beyond the planned \$60 million budget as dozens of landowners fought condemnation proceedings. By the time it's finished, the widening of S.R. 54 is likely to cost the county more than \$100 million, Gallagher said.

WIDENING COSTS :Planning and design: \$3 million **Right of Way \$74.2million**

Construction: \$28 million **Total: \$105.2 million**

Source: Pasco County Project Management Division

<http://lakerlutznews.com/lln/?p=9004>

### **SR 54 widening project complete**

January 18, 2012 By [The Laker/Lutz News](#).

By Kyle LoJacono

[klojacono@lakerlutznews.com](mailto:klojacono@lakerlutznews.com)

A little more than 20 months ago the most expensive road project in Pasco County history began — the widening of SR 54 through Wesley Chapel.

**The \$105.2 million job** was recently completed months ahead of schedule and brings with it the promise of a more connected county.

The county's Chief Project Manager Robert Shepherd added, "They got ahead of schedule fast and stayed ahead of schedule. It was as smooth as a major road job can be."

The newly improved roadway is now six lanes from I-75 to Curley Road, a stretch of about 3.2 miles.

**The overall construction and planning/design was only \$31 million, but cost to buy land along the state road cost Pasco an additional \$74.2 million.** Mulieri said the land was very expensive because several businesses had to be bought out to complete the job.

Another twist in the construction was the **closing of all the gas stations within the 7-mile span of SR 54** from Morris Bridge Road/Eiland Boulevard in Zephyrhills to I-75 in Wesley Chapel.

**Two of the stations had to be permanently shut down because of the widening**, while the Hess near Bruce B. Downs Boulevard and Citgo on Boyette Road had to close for several months because of the safety hazard created by the large construction equipment near the gas tanks.

#### **COMMENT INSERT—FROM THE USACE WEEBSITE:**

<http://www.usace.army.mil/Portals/2/docs/civilworks/RGLS/rgl93-02.pdf>

#### **Regulatory Guidance Letter 93-02**

SUBJECT: Guidance on Flexibility of the 404(b)(1) Guidelines and Mitigation Banking

The preamble to the Guidelines also states that "[i]f an alleged alternative is unreasonably expensive to the applicant, the alternative is not, 'practicable.'" Guidelines Preamble, "Economic Factors", 45 Federal Register 85343 (December 24, 1980).

**PAST COMMENT INSERT—There is no possible way that Pasco can rebut the presumption that less environmentally damaging practicable alternatives, such as adding 2 more lanes to SR's 54 & 52 (Alternative #13—4 additional lanes overall), are not "practicable" due to being cost prohibitive/unaffordable when that particular alternative will cost almost 25% less than what Pasco themselves (their share) already spent to widen SR 54 east of I-75 back in 2010-2011.**

And Pasco will not bear the brunt of that expense if the Pasco MPO would amend their LRTP and request from the FDOT that that option be placed on their 5-Year plan. Pasco's past share over the last 10-15 years of State Road's 54 & 52 widening projects from 2 to 4 and 6 lanes has been next to nothing. Most of the funding for those projects has come from the FDOT, FDOT construction grants and the Federal Government via FHWA dollars and stimulus dollars from the American Recovery Act (example: ARA--the addition of 2 more lanes to make 6 lanes on SR 54 ½ mile west & ½ mile east of the intersection of the Suncoast Parkway & SR 54 (the sign there during construction stated that that project received funding from the ARA of over \$5 million).

## **2—THE CHANCEY ROAD PROJECT**

### **IMPACTS TO “COMMUNITY COHESION” AND THE CHANCEY PARKWAY**

In order to rebut the applicant's position that ROW impacts from Alternative # 10 will cause “severe impacts to community cohesion” we will include here the fact that Pasco has approved a roadway project called the Chancey Parkway which was discussed before in a different context. A complete description of this project will come later. It is 6.8 miles long and goes through the Wiregrass Ranch development east of CR 581 and north of the proposed SR 56 extension. It will impact 52 parcels and require 24 relocations. 1.19 miles of this project have already been completed. It will totally bisect a rather large neighborhood development called Fox Ridge. In approving the preferred alignment for this project, Pasco never once mentioned that this much more extensive community bisection would cause any “severe community cohesion” problems, even though it will cause twice the “severity” that Pasco now says is a “logistical obstacle” to Alternative # 10. This flies in the face of being consistent and truthful.

### **COMMENT INSERT—FROM THE EXECUTIVE SUMMARY OF THAT PROJECT'S PROPOSAL.**

#### **EXECUTIVE SUMMARY**

Segment III traverses the Fox Ridge Subdivision and is approximately 2,600 feet long. Additional acquisition for the purposes of stormwater retention areas/drainage accommodation, realigned road connections (**frontage roads and cul-de-sacs**) to comply with access management criteria, and required landscape buffering expanded the right-of-way from the standard width of 140 feet up to an increased width of approximately 300 feet. This ultimately increased the overall residential impacts and project costs of the Preferred Alignment above that of Alignment B/C, **but are viewed as necessary impacts.**



Since the analysis uses the first 12 hours of evacuation time for all evacuees to leave their homes in all scenarios, the additional time beyond 12 hours represents the additional time needed to clear the evacuation zone. As indicated above, in the "no action" condition, 99 percent of the evacuees had cleared the evacuation zone after 23.4 hours, and in this alternative the same occurred after 21.8 hours. The percentage reduction in evacuation zone clearance time was calculated as  $100 \times (1 - (21.8 - 12) / (23.4 - 12))$ , or a 14.0 percent improvement would occur with this alternative compared to the "No Action" alternative.

### 3.10.5 Logistics

#### Obstacles to Construction:

As this alternative is consistent with Pasco County's Long Range Transportation Plan (LRTP) and does not require a permit from FDOT to construct, there are no obstacles to construction.

#### Impacts to Residences and Businesses:

Alternative 10 is expected to impact 6 residences and require acquisition of an additional 14 homes and relocation of families and impacts to 1 business. This alternative goes right through an existing neighborhood just to the west of US 41. Access is provided to the neighborhood by a circle street called Wisteria Loop. The right of way which would be acquired for this alternative would disconnect Wisteria Loop, resulting in the creation of two cul-de-sacs or local road connections to the extension of Tower Road.

3-61

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### 3.10.9 Summary

Compared to the No Action Alternative, this alternative reduces time to evacuate the coastal population by 1.6 hours which is a 14% improvement compared to the No Action Alternative. Compared to the No Action Alternative, Alternative 10 improves mobility by increasing Average Travel Speed by 4%; increasing Vehicle Miles of Travel by 1%; reducing Vehicle Hours of Travel by 2%; reducing the Volume to Capacity Ratio (congestion level) by 5%, and reduces Safety by increasing the crash rate 2% per day, an increase in 80 crashes per year within the Study Area.

The total cost for Alternative 10 is \$100,907,000 which is \$24,248,000 more than the Proposed Project, Alternative 5. This cost is due primarily to construction costs and acquisition of right-of-way costs.

Alternative 10 is consistent with the Long Range Transportation Plan. Alternative 10 will have an impact on residences and businesses impacting 6 residences, requiring acquisition of 14 residences and relocation of the families within these homes. This alternative will also impact 1 business.

3-65

When the County approved the Chancey Parkway [which had over twice the ROW impacts (52 vs 21) and almost twice the ROW relocations (24 vs 14), not to mention the relocation of the entire Fire Station # 16 involving the removal of 3 underground fuel tanks and the need for 6 cul-de-sacs],

**COMMENT INSERT—PLACEMENT OF THE ROW FOR THE CHANCEY ROAD PROJECT.**

In addition to the above rebuttal of the applicant's assertions regarding ROW impacts to parcels and to "community cohesion," the next segment of this comment considers the applicant's placement of the ROW for Alternative # 10 which avoids the current Tower Road ROW and pavement altogether. As we will show, this is understandable for the few residences just west of the RR tracks where the T B Water pipeline is located on the north side of Tower Road and occurs underneath the long driveways of the residents living there who will have to be relocated. But there is no reason why this ROW placement should have continued east of the RR tracks, since that pipeline crosses to the south under Tower Road at that location and no longer presents an obstacle to using the current Tower Road's 60-foot ROW.

The applicant's placing of the proposed ROW entirely to the left (north) of the current ROW and pavement east of the RR tracks, thereby avoiding any use of that ROW, makes no sense and appears to be a waste. It may well be an intentional attempt to place the proposed 4-lane ROW much further to the north so that it impacts more wetlands, more residences and more of Wisteria Loop. That allows the applicant to declare that this alternative has serious "logistical obstacles" which render it impracticable (in the applicant's mind) and needlessly increases the wetland impacts as well.

**COMMENT INSERT—THE CHANCEY ROAD PROJECT**

The blue highlighted sections below refer to the applicant's specific descriptions of how and where the Chancey Parkway project will be constructed. We will comment more on that in a later section.

Note how much more specific and understandable the narrative for this project is compared to the often vague narratives submitted for the alternatives for the RRE.

<http://www.pascocountyfl.net/documentcenter/view/1964>

**CHANCEY PARKWAY** From SR 581 to CR 579, Morris Bridge Road Pasco County, Florida FINAL ROUTE STUDY Prepared for: Pasco County Board of County Commissioners Pasco County Government Complex 7530 Little Road, Suite 320 New Port Richey, Fl. 34654 Prepared by: Reynolds, Smith & Hills, Inc. 1715 North Westshore Boulevard, Suite 500 Tampa, Florida 33607 **AUGUST 2003**

## 1.0 INTRODUCTION

This Route Study is being completed for the Pasco County BOCC to determine needed improvements for Chancey Road from SR 581 to Morris Bridge Road, a distance of approximately 6.5 miles. As indicated in Figure 1-1, Project Location, **part of the roadway will be on a new alignment and part will be along the existing Chancey Road.** The new alignment portion of Chancey Parkway will begin at SR 581 and proceed approximately 5.0 miles eastward to Tina Marie Drive. **The existing Chancey Road alignment will then be followed from Tina Marie Drive to Morris Bridge Road, a distance of 1.5 miles.** The alignment traverses Section 19 of Township 26 South, Range 21 East and Sections 19, 20, 21, 22, 23, and 24 of Township 26 South, Range 20 East. The alignments developed in this study were evaluated and analyzed on the basis of safety, estimated traffic volume projections, drainage requirements, environmental and property impacts, long range planning, construction and right-of-way costs, public input, as well as other factors.

## 2.0 EXISTING CONDITIONS

**2.3 HORIZONTAL AND VERTICAL ALIGNMENTS** The portions of Chancey Road within the project limits that are open to motor vehicle travel have two-lane undivided roadways with open drainage except at the crossing of New River where a onelane bridge carries Chancey Road over the river. The typical sections for the roadway segments are shown in Figure 2-1. **The alignment along the existing roadway is essentially flat and has a minimal horizontal curvature**

All three of the above statements, recopied for emphasis below, verify that Pasco has approved a roadway design (Chancey Parkway) that uses the existing ROW alignment and roadway pavement.

But they chose not to employ that same design and ROW alignment placement for the 4-lane Alternative # 10, or for any of the 2-lane alternatives containing Tower Road.

Why was that?

part of the roadway will be on a new alignment and part will be along the existing Chancey Road.

The existing Chancey Road alignment will then be followed from Tina Marie Drive to Morris Bridge Road, a distance of 1.5 miles.

The alignment along the existing roadway is essentially flat and has a minimal horizontal curvature

#### **EXCERPTS FROM THE SAME CHANCEY PARKWAY EXECUTIVE SUMMARY.**

Segment IV traverses the area proposed for development as Wyndfields. Alignment A/B (the Preferred Alignment) proposes right-of-way acquisition north of, and contiguous with, the existing right-of-way,

Alignment C proposes right-of-way acquisition south of, and contiguous with, the existing right-of-way

The reader will note that both alignments use the existing ROW and are “contiguous” with the existing ROW.

#### **EXAMPLE # 2---CHANCEY PARKWAY IMPACTS ARE MUCH GREATER THAN THOSE OF ANY ALTERNATIVE HAVING A TOWER ROAD OPTION.**

We have already discussed in a prior section the large amount of impacts possessed by the Chancey Parkway project, including residential relocation, cul-de-sac and community cohesiveness impacts when compared to those of any Tower Road alternative.

Below is from the Final Route Study showing the impact numbers for the Chancey Parkway. After that is shown the Evaluation Matrix for the 3 possible alternatives. The preferred alternative was a combination of A & B with a short segment following the alternative C route. More evidence in is Exhibit # 1 at the end of this comment.

**COMMENT INSERT—CHANCEY ROAD PROJECT COMPARED TO TOWER ROAD—RESIDENTIAL AND BUSINESS IMPACTS.**

This is a comparison between the Chancey Parkway impacts and the Alt. # 10, 4-lane Tower Road impacts.

COMPARISON TABLE BETWEEN 4-LANE TOWER ROAD ALT. # 10 & CHANCEY PARKWAY:

|                   | TOWER ROAD ALT. # 10               | CHANCEY PARKWAY<br>(Alignment A & B) |
|-------------------|------------------------------------|--------------------------------------|
| TOTAL DISTANCE    | Around 11 miles (Pasco never says) | 6.83 miles                           |
| ROW RELOCATIONS   |                                    |                                      |
| RESIDENTIAL       | 14                                 | 24                                   |
| BUSINESS          | 0                                  | 0                                    |
| NON-PROFIT        | 0                                  | (FIRE STATION-with buried gas tanks) |
| ROW IMPACTS       |                                    |                                      |
| NUMBER OF PARCELS | 21                                 | 52                                   |
| RESIDENTIAL       | 8                                  | Pasco does not say                   |
| BUSINESS          | 1                                  | 0                                    |

Chancey Parkway caused 52 Row impacts + 24 relocations

Tower Rd ALT #10 will cause 21 Row impacts + 14 relocations

Chancey Parkway caused Almost Twice the # of relocations in  $\frac{1}{2}$  the distance (6.8mi vs 11mi.)

So how can Pasco maintain that ALT #10 has prohibitive "logistical obstacles" that make it impracticable?

**COMMENT INSERT—MORE EVIDENCE RE: THE CHANCEY ROAD PROJECT.**

<http://www.pascocountyfl.net/documentcenter/view/1964>

## CHANCEY PARKWAY From SR 581 to CR 579, Morris Bridge Road Pasco County, Florida FINAL ROUTE STUDY

### 5.8.1 Right of Way Impacts

Each of the Build Improvements would require the acquisition of right of way to allow the road to be constructed. Each of the improvements would also have a number of relocations. The relocations have been summarized into three categories: residential, business, and non-profit. The number of relocations for each improvement are indicated in the Evaluation Matrix, Table 5-5.

Alignments A and B would result in 24 residential and one community services relocation (Fire Station #16) and Alignment C would result in 47 residential and no community services relocations.  
There would be no business relocations for any of the alignments under consideration.

The Build Alignments would require right of way from between 52 and 79 parcels.

### 5.8.2 Alignment Costs

Costs have been estimated for the right of way needed to construct each of the build alignments. These costs include right of way acquisition, design, construction, and construction engineering inspection.

#### 5.8.2.1 Right of Way Costs

Right of way costs including amounts for land and buildings were estimated for each parcel impacted. Relocation costs were estimated as 25% of the building cost. These relocation costs are included in right of way costs listed in Table 5-5. Due to the lower elevation of some areas within the project area in relation to the 100-year floodplain, some of the ponds required to treat stormwater runoff may need to be located in the 100-year floodplain. In those instances, it will be necessary to purchase adjacent land above the 100-year floodplain to compensate for floodplain impacts. Costs to acquire land for this floodplain compensation have been identified, where appropriate, and have been included in the right of way cost estimate. The right of way costs varied from \$3,139,000 for Alignment A (North Alignment) to \$3,604,000 for Alignment C (South Alignment).